



Contaminated Land Strategy 2009 - 2014



September 2009

FOREWORD

The long industrial history of the United Kingdom has caused areas of land nationwide to become contaminated in various ways over many years. For example, the ground around old factory and chemical sites may contain substances which can have the potential to contaminate in some cases. Other forms of contamination can be more subtle, ancient and/or obscure in origin. Contaminated land can present a risk to people, animals, vegetation, rivers and streams, buildings and the groundwater system from which we obtain our drinking water.

In addition to direct health and environmental problems, land contamination can cause economic and financial damage. Uncertainties about remediation requirements and liability for them can cause blight, deter development of brownfield land in favour of greenfield sites and affect urban regeneration. However, effective management of contaminated land issues will prove beneficial to interested parties, local communities and the environment as a whole.

The quality of our land in North Devon is important to all of us, both in terms of public health and in ensuring continuing economic prosperity. The Council's overall objective with this document is to identify and control potential risks to public health and the environment that could arise from contaminated land. The Council needs to be able to identify where potentially hazardous sites might be located, assess the risk that these sites could pose to the local community and the environment and ultimately, prioritise them so that we can focus resources on where the risk is greatest.

This is a large task but I am confident that the steps described in this Strategy document will lead to better protection of our land, our people and the environment of North Devon.

Councillor Des Brailley
Leader of the Council

Contents

FOREWORD	2
CONTENTS.....	3
CHAPTER 1 INTRODUCTION	5
1.1 NDC MISSION STATEMENT AND VALUES	5
1.2.1 Our Mission	5
1.2.2 Our Vision	5
1.2 REGULATORY CONTEXT.....	5
1.2.1 The Roles of the Council and the Environment Agency	6
1.2.2 Defining Contaminated Land	6
1.2.3 Dealing with Contaminated Land	6
1.2.4 Pollutant Linkages and Risk Assessment	7
1.3 DEVELOPMENT OF THE STRATEGY.....	8
1.4 OBJECTIVES OF THE STRATEGY.....	8
CHAPTER 2 CHARACTERISTICS OF THE NORTH DEVON DISTRICT.....	9
2.1 GEOGRAPHICAL LOCATION.....	9
2.2 BRIEF DESCRIPTION / HISTORY	9
2.3 SIZE.....	10
2.4 POPULATION DISTRIBUTION	10
2.5 LAND OWNED BY THE COUNCIL	10
2.6 CURRENT LAND USE CHARACTERISTICS	10
2.7 PROTECTED LOCATIONS.....	10
2.8 KEY PROPERTY TYPES	11
2.9 KEY WATER RESOURCE / PROTECTION ISSUES	11
2.10 KNOWN INFORMATION ON CONTAMINATION.....	11
2.11 CURRENT AND PAST INDUSTRIAL HISTORY	11
2.12 BROAD GEOLOGICAL CHARACTERISTICS	12
2.13 BROAD HYDROGEOLOGICAL CHARACTERISTICS	13
HYDROLOGY	13
HYDROGEOLOGY	13
2.14 REDEVELOPMENT HISTORY AND CONTROLS.....	13
2.15 ACTION ALREADY TAKEN TO DEAL WITH LAND CONTAMINATION	14
CHAPTER 3 OVERALL AIMS OF THE NORTH DEVON COUNCIL STRATEGY 15	
3.1 THE COUNCIL'S PRIORITIES	15
3.2 APPROACH AND MILESTONES.....	15
Stage 1 – Creation of Contaminated Land Officer Working Group	15
Stage 2 – Inspection Strategy	15
Stage 3 – Site Identification	16
Stage 4 – Dealing with Most Urgent Sites	17
Stage 5 – Inspection of Potentially Contaminated Sites	17
Stage 5A – Council Owned Land	18
Stage 6 – Output of Information	18
CHAPTER 4 NDC PROCEDURES	19
4.1 INTERNAL MANAGEMENT ARRANGEMENTS FOR INSPECTION AND IDENTIFICATION	19
4.2 LOCAL AUTHORITY INTERESTS IN LAND	19
4.3 INFORMATION COLLECTION.....	19
4.4 INFORMATION MANAGEMENT	20
4.4.1 Complaints	20
4.4.2 Confidentiality	21
4.4.3 Anonymously provided information	21
4.4.4 Voluntary provision of information	21

4.4.5 Anecdotal evidence	21
4.5 INFORMATION EVALUATION	22
4.6 INTERACTION WITH OTHER REGULATORY REGIMES.....	22
CHAPTER 5 LIAISON AND COMMUNICATION	24
5.1 STATUTORY CONSULTEES	24
5.2 NON-STATUTORY CONSULTEES	24
5.3 COMMUNICATION WITH OWNERS, OCCUPIERS AND OTHER INTERESTED PARTIES	25
5.4 CROSS-BORDER CONTAMINATION	25
5.5 POWERS OF ENTRY	26
5.6 ENFORCEMENT ACTION.....	26
5.7 COMMUNICATION WITH GENERAL PUBLIC	26
5.8 THE PUBLIC REGISTER OF CONTAMINATED LAND	26
CHAPTER 6 PROGRAMME FOR INSPECTION	28
6.1 DETAILED INSPECTION OF POTENTIALLY CONTAMINATED SITES	28
6.2 SITE-SPECIFIC LIAISON	28
6.3 METHODS OF INSPECTION	28
6.4 SPECIAL SITES	30
6.5 APPOINTMENT OF CONSULTANTS AND CONTRACTORS	30
6.6 RISK COMMUNICATION.....	31
6.7 FREQUENCY OF INSPECTION	31
CHAPTER 7 REVIEW MECHANISMS	32
7.1 TRIGGERS FOR UNDERTAKING INSPECTIONS	32
7.2 REVIEWING THE STRATEGY	32
CHAPTER 8 INFORMATION MANAGEMENT	33
8.1 DATA STORAGE AND ACCESSIBILITY	33
8.2 DATA CONFIDENTIALITY	33
8.3 REQUESTS FOR INFORMATION.....	33
8.4 PROVISION OF INFORMATION TO THE ENVIRONMENT AGENCY	33

Chapter 1 Introduction

North Devon Council is required to identify, inspect and remediate land in its district for contamination under Part IIA of the Environmental Protection Act 1990, which came into force on the 1st April 2000. This strategy details how the regulatory role for local authorities will be undertaken.

1.1 NDC Mission Statement and Values

1.1.1 Our Mission

To improve the quality of life for everyone in North Devon.

1.1.2 Our Vision

To be a high performing council that puts customers at the heart of our thinking, working with partners to deliver high quality services through a dedicated and motivated workforce.

If we are to achieve our mission it's important that we recognise the values we need to follow to make effective progress. These are:

Our customers come first

We value our customers and will put them at the heart of everything we do. We will listen to and respect their views and shape our services to their needs in a way that provides not only equality of access to services but also equality of outcome.

We are committed to improvement, so performance matters

We recognise that we can always improve. We will strive to learn from everything we do and spread that learning across the Council. Our aspiration is to provide continually improving services that meet the changing needs of the community.

An excellent employer that values our staff

We are committed to ensuring that North Devon is a place where people want to work and feel valued and empowered to deliver excellent services and continuous improvement.

Listening and acting

Listening to what people say and being prepared to take action as the democratically elected community champion. Providing opportunities for our communities to influence decisions on local services and issues.

Being passionate about good communications

We are committed to providing information in a timely, open and effective way.

Running a well managed organisation

All of our activities will be managed efficiently, effectively, ethically and in a way that makes best use of resources so as to ensure the best possible services for the local community.

Working together

Recognising that Members and officers working together is the best way of delivering services.

1.2 Regulatory Context

Contaminated land legislation has been under development since the early 1990's. Following consultation on a 1993 White Paper entitled "Paying for our Past", the Environment Act 1995 inserted a new section – Part IIA – into the Environmental Protection Act 1990. Another period of consultation followed this enabling legislation, with statutory guidance and regulations being passed in early 2000, bringing the Part IIA powers into force in April 2000. One of the key components of the new Part IIA contaminated land regime is the production of a

written strategy document by each local authority, detailing how it intends to inspect its area for potentially contaminated land sites.

1.2.1 The Roles of the Council and the Environment Agency

Local authorities have been given the primary regulatory role under the Part IIA regime, as local authorities have historically had responsibility for dealing with any statutory nuisance caused by land contamination, and are also the lead authorities on land use planning.

The local authority has a duty to: -

- Cause their areas to be inspected for contaminated land.
- Determine whether any particular site meets the statutory definition of contaminated land and what if any, remediation is required.
- Act as the enforcing authority for all contaminated land, unless the site meets the definition of a “special site”, in which case the Environment Agency will act as the enforcing authority.

The Environment Agency has a secondary regulatory role in assisting local authorities, providing site-specific local guidance, dealing with “special sites” and publishing periodic reports on the state of land contamination nationally.

1.2.2 Defining Contaminated Land

The definition of contaminated land in United Kingdom law is given in section 78A(2) of the Environmental Protection Act 1990.

“Contaminated Land” is any 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 waters is being, or is likely to be caused.

A “Special Site” is defined by section 78A(3) as any contaminated land: -

- (a) which has been designated as such by virtue of section 78C(7) or 78D(6); and,
- (b) whose designation as such has not been terminated by the appropriate Agency under section 78Q(4).

Section 78A(5) requires the regulatory authority to act in accordance with guidance issued by the Secretary of State in determining the significance and likelihood of harm.

1.2.3 Dealing with Contaminated Land

Once an area of land has been determined as Contaminated Land, the approach for dealing with it is the same regardless of whether the local authority or the Environment Agency is the regulator. There are four main stages to this approach: -

- i) To establish who is the “appropriate person” to bear responsibility for the remediation (or “clean-up”) of the land.
- ii) To decide what remediation is required and to ensure that this occurs, through:
 - Reaching a voluntary agreement.
 - Serving a remediation notice, if agreement cannot be reached.
 - Carrying out work themselves, in certain circumstances.

- iii) To determine who should bear what proportion of the liability for meeting the costs of the work.
- iv) To record certain information about regulatory action on a public register.

1.2.4 Pollutant Linkages and Risk Assessment

For a site to meet the definition of contaminated land, a pollutant linkage must be established. A pollutant linkage consists of three parts:

- i) A source of contamination, a substance in, on or under the ground with the potential to cause harm
- ii) A pathway by which the contaminant is causing significant harm (or which presents a significant possibility of such harm being caused)
- iii) A receptor of a type specified in the regulations



Some receptors recognised as being potentially sensitive include:

- **Human beings**
- **Ecological systems or living organisms forming part of a system within certain protected locations, including:**
 - ❑ Sites of Special Scientific Interest (SSSI)
 - ❑ National Nature Reserves
 - ❑ Marine Nature Reserves
 - ❑ Nature Reserves
 - ❑ National Parks
 - ❑ Special Areas of Conservation (SACs)
 - ❑ Special Protection Areas (SPAs)
 - ❑ Candidate SACs
 - ❑ RAMSAR sites
 - ❑ Areas of special protection for birds
 - ❑ County Wildlife Sites
 - ❑ Areas of Outstanding Natural Beauty (AONBs)
 - ❑ Local Nature Reserves
 - ❑ Areas of Outstanding Natural Beauty (AONBs)
 - ❑ Coastal Preservation Areas (CPAs)
 - ❑ Regionally important Geological Sites
- **Property in the form of buildings, including:**
 - ❑ Ancient monuments
- **Property in other forms**
 - ❑ Crops
 - ❑ Livestock
 - ❑ Home-grown produce
 - ❑ Owned or domesticated animals
 - ❑ Wild animals subject to shooting or fishing rights
- **Controlled Waters**
 - ❑ Relevant territorial waters
 - ❑ Coastal waters
 - ❑ Estuarine waters
 - ❑ Inland freshwaters
 - ❑ Groundwater

If the three components of the pollutant linkage exist, a risk assessment will be undertaken to determine the likelihood of harm being caused and the likely nature and extent of the harm caused if the predicted event actually occurred. An area of land can only be designated contaminated land where a pollutant source, pathway and receptor are found to be present, and where a significant risk has been proven.

1.3 Development of the Strategy

All local authorities are required to take a strategic approach to inspecting land in its area for contamination.

The statutory guidance requires that the approach adopted should:

- Be rational, ordered and efficient
- Be proportionate to the seriousness of any actual or potential risk
- Seek to ensure that the most pressing and serious problems are located first
- Ensure that resources are concentrated on investigating areas where the authority is most likely to identify contaminated land
- Ensure that the local authority efficiently identifies requirements for the detailed inspection or particular areas of land.

This strategy has been developed to meet the above requirements. Particular reference has been made to "Contaminated Land Inspection Strategies – Technical Guidance for Local Authorities" issued by the Department of Environment, Transport and the Regions (DETR). It has been prepared in a number of stages: -

- i) A draft strategy for consultation prepared by Environmental Health and Housing Services, who is the lead service on contaminated land.
- ii) The consultation draft will be submitted for approval to the Council's Cabinet.
- iii) Comments will be invited on the consultation draft from formal consultees and informal consultees, including other departments.
- iv) A final version of the strategy will be submitted to the DETR and copied to the Environment Agency.

1.4 Objectives of the Strategy

The objectives of the strategy are: -

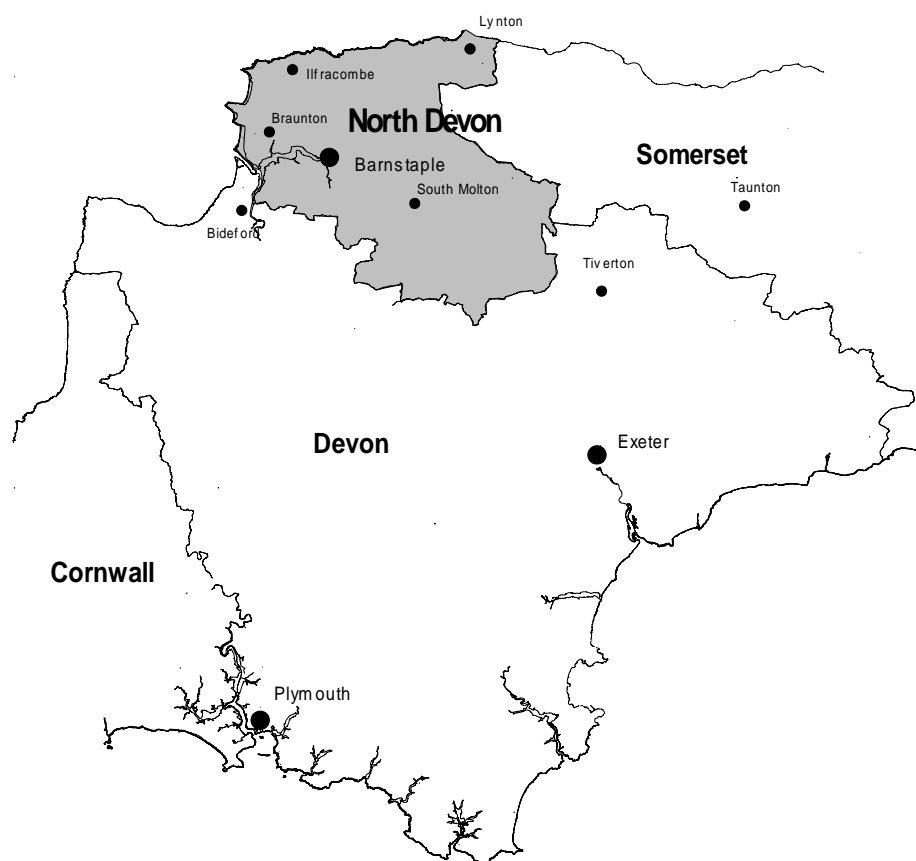
- I. To outline a rational, ordered and efficient approach to the identification and inspection of contaminated land in the North Devon district.
- II. To protect receptors such as humans, controlled waters and ecological systems from harm caused by land contamination.
- III. To ensure that the issue of land contamination is fully addressed in the development/redevelopment of all sites in the North Devon district.
- IV. To outline the procedures for communication of contaminated land information to the public and the relevant owners, occupiers, developers etc.
- V. To address North Devon Council's contaminated land liabilities, as both a former and current landowner.
- VI. To identify Special Sites and to obtain the information necessary for the Environment Agency report on contaminated land.

Chapter 2 Characteristics of the North Devon District

This section provides the background to the area of the North Devon district, and an explanation of how that influences the Authority's particular approach to inspection for contaminated land.

2.1 Geographical Location

The North Devon district occupies the northern most part of the county of Devon, and borders the western borders of Somerset, and the Bristol Channel. The area is characterised by a rugged northern Bristol Channel coast, the sandy beaches of the West Coast, the estuarine and valley landscapes of the River Taw, and the open moorland and farmland of the Exmoor fringes. The district includes approximately one third of the area of Exmoor National Park.



2.2 Brief Description / History

The character of the North Devon district is inextricably linked to its natural landscape, which is its most prized asset. The landscape is highly valued by residents and tourists alike, and incorporates numerous Sites of Special Scientific Interest, Areas of Outstanding Natural Beauty, and Heritage Coastline. The principal settlements in the North Devon Council's area are Barnstaple, Braunton, Ilfracombe, South Molton, Combe Martin and Lynton and Lynmouth, although there are numerous other communities (eg. large and small villages, hamlets and dispersed communities).

Historically, the inhabitants of the district have primarily exploited the area's agricultural and natural resources. Since Victorian times however, a substantial tourist industry has flourished in the area.

2.3 Size

The administrative area of North Devon Council covers approximately 1085 square kilometres (419 square miles).

2.4 Population Distribution

The population of North Devon district in 2005 was approximately 96,059 which centred on four principal settlements (last census 2001, next census 2011):

Town	Population
Barnstaple/ Fremington	35,142
Ilfracombe	12,510
Braunton	8,272
South Molton	4,609
Other Locations	35,526
TOTAL	96,059

2.5 Land Owned by the Council

Following the transfer of the housing stock to North Devon Homes in 2000, North Devon Council now has only limited land holdings in the district, and these are under the control of the Authority's Property and Technical Services Unit. However, in other instances North Devon Council has retained the freehold of land which is leased in the long term and, in some instances, this brings with it duties and responsibilities. In specific circumstances the Council may actively pursue the purchase of derelict land and redevelop this to improve the overall quality of an area.

The contaminated land regime operates under the "polluter pays" principle. In the past, North Devon Council may have undertaken potentially polluting activities on land that has now passed into private ownership. If the land is deemed contaminated, then the Council shall be liable for the costs of its clean up. Identification of these potential liabilities shall be one of the prime objectives of this strategy.

2.6 Current Land Use Characteristics

Despite the significant development to towns and villages in the district, the main use of land in the district is still for agricultural purposes. Industrial activity is generally restricted to the small-medium sized industrial estates in the vicinity of the principal settlements. The tourism industry is a significant land user near the western and northern coasts, principally in the form of a number of large caravan and campsites.

2.7 Protected Locations

North Devon's natural landscape is one of its most prized assets, and includes the following:

- UNESCO Biosphere Reserve and a Special Area of Conservation – Braunton Burrows
- An Area of Outstanding Natural Beauty (AONB) – Coastal areas from Combe Martin to Crow Point, excluding Ilfracombe
- Exmoor National Park
- Sites of Special Scientific Interest (SSSI's)
- Heritage Coast – Combe Martin to Braunton, including the Great Field and Braunton Marsh
- Areas of Great Landscape Value
- The coast is also designated as a Coastal Preservation Area, and the district contains Regionally Important Geological and Geomorphological Sites

2.8 Key Property Types

As well as a rich natural landscape, North Devon has a rich archaeological history, with over 3000 listed buildings, 82 scheduled ancient monuments and 39 designated conservation areas. The County Sites and Monuments Register identifies known important archaeological sites in North Devon. Braunton Great Field falls outside of the scheduled ancient monument criteria although its archaeological significance merits national importance. In addition to the above, there are six entries for North Devon on the English Heritage Register of Parks and Gardens of Special Historic Interest.

2.9 Key Water Resource / Protection Issues

South West Water supplies the majority of the district's drinking water from reservoir and river abstractions. The predominantly rural nature of North Devon has however prevented public water supplies from reaching many areas. As a result, private water supplies are commonplace, and the Council has a rolling programme to inspect the quality of the approximately 1500 private water supplies in its area.

2.10 Known Information on Contamination

North Devon Council holds some information on land contamination in the district, primarily submitted as part of the development control process. Where development is proposed on a formerly developed area of land, that may be potentially contaminated, the Council will normally require a site investigation to be undertaken through planning condition. Should development proceed on this land, and significant contamination is found, remedial works are taken to make the land suitable for its intended end use. Where sites have been properly considered under planning, then it is highly unlikely that they will be determined as Contaminated Land. Historical records will therefore be a useful source of information during the site identification and investigation process.

2.11 Current and Past Industrial History

North Devon has had a limited history of heavy industry, the main population centres developing as a result of their position as historical market towns or Victorian tourist destinations. However, there is a number of potentially significant sources of industrial land contamination. It should be noted that the sites of some former industrial activities may be scheduled ancient monuments, and at these sites any contaminants may constitute a significant element of the archaeological interest. In this situation, any remedial actions must be carefully considered.

Site reports through IPPC give an assessment of baseline condition of the site and may seek to quantify those contaminants that may be added to by current operations. They may also indicate where there has been historic use of substances. If these substances are no longer used they would not be required to be quantified during the baseline survey, however indication that they may be present may prompt the Authority to identify that site as a potential site for investigation.

2.11.1 Metal Mining at Combe Martin and North Molton

The Environment Agency's North Devon Streams LEAP document identifies 20 abandoned mines in the North of the district, primarily concentrated around Combe Martin. The mines worked iron ore, lead/silver, manganese and lead/zinc. It is likely that these historic mining operations have produced some contamination of surrounding land.

Similarly, there has been a long history of copper mining in the area around North Molton. The Environment Agency Taw LEAP document identifies elevated levels of dissolved copper in the River Mole at a sample point below South Molton

sewage treatment works. These elevated levels are attributed to the natural enrichment of the water from historic mining and geology in the area around North Molton.

2.11.2 Pottery Industry

Due to the presence of glacial clay deposits near Barnstaple, the area has long had a local pottery industry, with several companies in operation in the Barnstaple, Fremington and Bideford areas. The industry is still represented locally to this day. In the past, heavy metals were frequently used in the glaze materials of pottery ware, and there is the potential for historical pottery sites to be contaminated with these materials.

2.11.3 Petrol Stations

In the past, because of North Devon's rural nature, almost every village had a petrol station. Most of these small village stations have now closed, however they present a significant contamination risk, and as such must be investigated. The local petroleum licensing authority, Devon County Council, should be able to identify the locations of many of these former petrol stations.

2.11.4 Other Sites

As well as the above mentioned sites, there are several former gasworks, metal works, old abattoirs and landfills in the district which will require investigation. Areas of North Devon do suffer from soils that have been naturally enriched by metals, particularly arsenic.

2.12 Broad Geological Characteristics

The Geological strata of North Devon are almost exclusively made up of sedimentary rocks of the Upper and Middle Devonian era, and contains more than 15 distinct rock types, with numerous intrusions and significant drift geology. Starting at the most northerly point in the district, Foreland Point, and travelling south, the solid geology of the district is made up of a series of distinct bands running approximately in a west-north-west to east-south-east direction across the district.

The first rock type encountered is Hangman's Grits of the lower Middle Devonian period. The Hangman's Grits form two distinct bands separated by a band of older Lynton Slates. In the area surrounding Combe Martin, and south of the Hangman's Grits are small bands of local slates, these being Wild Pear Slates, Lester Slates and Sandstones, and Combe Martin Slates. This local geology is notable for its various metal deposits that have been subject to historical mining. These small bands are followed by a large band of Kentisbury Slates. This is the rock type underlying Ilfracombe and extends through Kentisbury and Challacombe and onto Exmoor. The next rock type is Morteheo Slates, extending from the area around Morte Point up onto Exmoor, in the area south of Simonsbath.

A band of Pickwell Down Sandstones starts at the coast between Woolacombe and Putsborough, and extends right across the district, underlying Bratton Fleming, Molland, East and West Anstey, through to Dulverton and beyond. Narrow bands of Upcott Slates and Baggy Sandstones follow to the south, and extend along an almost identical track from Baggy Point across the district. Significant faulting of these bands are noted in the areas around Brayford and East Buckland where these rocks encounter a larger area of Pickwell Down Sandstones.

The next band is Pilton Shales. This covers a large area just north of Barnstaple, narrowing from west to east and passing between South Molton and North Molton. Drift geological features dominate the areas around Barnstaple and

Braunton, being mainly riverine and estuarine Alluvium. Braunton for example, is almost exclusively built upon first Terrace river deposits. In the estuary area there are also significant deposits of Boulder Clay and Pebbly Clay and Sand.

South of Barnstaple, the geology becomes more fragmented, as the main rock types are extensively faulted, and from intrusions of other rocks. This fragmentation is too extensive to fully describe, however distinct geological formations do exist. In Carboniferous times, deformation of the sea basin initiated a series of thrusts and folds of a major syncline running east to west across the region.

The first significant band is the shales and sandstones of the Crackington Formation. This formation is broken up by two features; the alluvial deposits of the River Taw valley and the Codden Hill Chert intrusion, running approximately east to west across the formation and into the band of Pilton Shales. The next band is the shales and sandstones of the Bideford Formation, although this changes to Bude Formation geology as you travel east into the areas around Chittlehampton and South Molton.

In the areas south of the Chittlehampton to South Molton line, the sandstones of the Bude and Crackington Formations dominate. The shale intrusions into the predominant sandstones are too extensive and numerous to fully describe. It is therefore, noted that accurate site-specific geological information will be necessary in all cases in these areas.

2.13 Broad Hydrogeological Characteristics

Hydrology

One of the major features of the North Devon district is the River Taw and its Estuary. The catchment area of the River Taw and its tributaries covers most of the district. Part of the district forms part of the River Torridge catchment, the other major river in Northern Devon.

Outside of the catchments of these two large rivers is an area known as the North Devon Streams, a number of small rivers that occupy the Western and Northern coastal areas. These streams include the East and West Wilder Brooks in Ilfracombe and the East and West Lyn Rivers at Lynmouth. The quality of the river water in North Devon is monitored by the Environment Agency. The water quality of the Taw and the Torridge is predominantly classified as good or very good.

Hydrogeology

The Environment Agency Groundwater Vulnerability Maps provide information on the water beneath the district. Source Protection Zones (SPZ) are areas defined by the Environment Agency for groundwater sources (wells, boreholes and springs) used for public drinking water supply. The SPZ provide an indication of the risk to groundwater supplies, for which SPZ have been defined, that may result from potentially polluting activities and accidental releases of pollutants. Generally the closer the activity or release is to a groundwater source the greater the risk. The maps indicate that there are only minor aquifers located in North Devon district and no designated source protection zones.

2.14 Redevelopment History and Controls

The principal area of redeveloped contaminated land in the North Devon district is the former Seven Brethren Landfill in Barnstaple. North Devon Leisure Centre, the fairground site, and approximately 20 commercial properties, ranging from large retail stores to a recycling centre, currently occupy the site. The site has

been subject to works to vent landfill gas and prevent groundwater migration, and all buildings on the site are fitted with landfill gas alarms.

At present, where an area of previously developed land is subject to an application for planning approval, Planning and Development Services of North Devon Council consults both the Authority's Environmental Health and Housing Services and the Environment Agency for potential adverse impacts on human health and that of the wider environment. Both of these organisations then recommend conditions to be attached to the permission as appropriate. In addition, Planning and Development Services will liaise with statutory consultees as appropriate. For example, Natural England is a statutory consultee for developments affecting a statutory designated site (eg. SSSI) from the General Development Procedure Order. As a result, Natural England is automatically consulted for sites close to an SSSI or county wildlife site.

2.15 Action already taken to deal with land contamination

Historically land contamination has been addressed through Statutory Nuisance legislation, building control powers and the planning process, which have enabled the authority to ensure land is suitable for use. However, all of these powers are primarily reactive and, other than work undertaken to deal with contamination of Council owned land, North Devon Council has not actively sought out areas of potentially contaminated land in the district. This strategy represents the start of this Authority's work to deal with land contamination in North Devon in a proactive manner.

Chapter 3 Overall Aims of the North Devon Council Strategy

3.1 The Council's Priorities

Each area of potentially contaminated land considered by North Devon Council will be unique in the particular characteristics of its contamination and a site specific approach to remediation will be necessary. However, this Authority has formulated a set of prioritised aims to be applied in all cases to direct decision-making and ensure consistency of approach. The aims of North Devon Council in dealing with contaminated land are:

1. To protect human health
2. To protect controlled waters
3. To protect the environment
4. To protect designated ecosystems and biodiversity
5. To prevent damage to property
6. To encourage voluntary remediation
7. To encourage re-use of previously developed land

The list is presented in priority order and all criteria will have regard to the likelihood and significance of harm as required by the regulations. *This priority order is only preliminary and can be changed if considered necessary.*

In line with the requirements of paragraph B.9 of the DETR Circular on contaminated land, this Authority will seek to prioritise those sites that potentially have contamination issues. Those sites determined as being at highest risk, where contaminated land is most likely to occur, will be this Authority's first priority for investigation.

3.2 Approach and Milestones

The approach of the North Devon Council Contaminated Land Strategy has been broken down into a number of sequential stages. Those priority actions necessary to meet the objectives of the regime outlined in section 3.1 above and the projected timescales for completion of each stage are also included.

Stage 1 – The Initial Investigation of Contaminated Land

The designated officer, responsible for contaminated land, will identify where support is required within the Authority and obtain as necessary. Support may be required from Environmental Health and Housing Services, Building Control, Planning and Development Services, Property and Technical Services and Legal Services. The individual will foster efficient liaison and information exchange within the Authority, in order that all areas of the Authority's work that may impact upon contaminated land can be considered. Experts with relevant technical advice will meet as required throughout the period covered by this strategy.

Stage 2 – Inspection Strategy

The NDC strategy has been written in accordance with the DETR Advice Note on Inspection Strategies. The Officer Working Group will consider the Inspection Strategy. It is proposed to consult other organisations on the content of the strategy and areas of specific concern they may have. Responses and amendments can then be incorporated into the final strategy document as appropriate.

Stage 3 – Site Identification

The principal purpose of this Strategy is to address the manner in which North Devon Council will inspect all potentially contaminated land within its boundaries and secure any necessary remedial works. To collect and review the information efficiently, North Devon Council will establish, in phases, a database of all potentially contaminated land in North Devon. This stage will address the information gathering exercises necessary to establish a comprehensive, accurate and relevant database.

North Devon Council has a software package that will assist in the compilation, recording and risk assessment of potentially contaminated land. The software will provide a database of potentially contaminated land or sites and subsequent information gathered will be updated. The following criteria **must** be assessed in the establishment of the database: -

- i) Any evidence that significant harm (as defined in the regulations) or pollution of controlled waters is actually being caused.
- ii) The distribution of any receptors (e.g. human beings, vulnerable ecosystems etc.) throughout the different parts of North Devon.
- iii) The extent to which any of those receptors is likely to be exposed to a contaminant, e.g. as a result of the use of the land or the geological features of the area.
- iv) Any information on land contamination that is already available (all historical sources).
- v) The nature and scale of any historical, industrial or other activities that may have contaminated areas of land in the past.
- vi) The nature and history of past redevelopment in North Devon.
- vii) Information on any remedial actions that have already been taken by the Authority or others to deal with land contamination problems, or are likely as part of an impending development.
- viii) Information held by other regulatory bodies on the possibility of harm being caused to particular receptors or the likelihood of any pollution of controlled waters in North Devon.

Obtaining the above information will involve significant research of historical records and extensive consultation with Town and Parish Council, local historical and environmental societies and organisations, and individuals who may have valuable information and local knowledge on potentially contaminative past land uses.

The final stage of database creation will be to risk assess each parcel of potentially contaminative land, so that those sites most likely to cause harm, or those with the highest potential to cause harm are addressed. The software will provide a risk assessment using a computer based scientific screening tool that considers various factors and criteria dependent on the inputted information. All parcels of potentially contaminated land will be identified by the form of a polygon on the landline maps contained on the corporate G.I.S. system. **The site identification database is to be completed on an incremental basis with information added annually or on a regular basis as specific site information becomes clear.**

Sites may be determined as being contaminated land at this stage of the strategy implementation. In this situation, remediation actions should also commence at this time if site remediation cannot be delayed to a later time. This will apply throughout the entire period of the strategy work programme.

Stage 4 – Dealing with Most Urgent Sites

Sites can be determined on the basis of the reasonable possibility of a pollutant linkage. If any sites are identified where a pollutant linkage already exists, and significant harm or pollution of controlled waters is already being caused, then these sites will be the Authority's priority. If the need exists, these sites may be dealt with before final publication of the strategy and appropriate investigations will proceed to deal with any such sites. Should any of these priority sites be declared "special sites", the regulation of these sites is then passed to the Environment Agency.

Pollutant linkages should normally be established based on robust scientific evidence. However, sites can be determined on the basis of the reasonable possibility of a pollutant linkage. Urgent action has a specific meaning under Part IIA, and urgent sites can be determined and fast tracked for remediation (see section 4.4.1). Unless this evidence is found during the site identification stage, it is unlikely that any urgent sites will be identified until Stage 5. Contingencies have been made however to deal with any sites which present themselves from **September 2009 to February 2014**.

Stage 5 – Inspection of Potentially Contaminated Sites

The general approach to the inspection of potentially contaminated sites will be to address those deemed at the highest risk by the risk assessment process first. Furthermore, given this Authority's principal aim is the protection of human health, in the absence of evidence to the contrary, those sites in closest proximity to large numbers of human receptors (i.e. in towns) will be considered first. Sites located in Towns are at highest risk of having all three elements of a pollutant linkage on an area of potentially contaminated land which could cause significant harm to human health.

Therefore, it is likely that the investigation of potentially contaminated sites, once identified, will run in the following order:

Urban areas

- All sites in risk category order.
- All potential sites in a risk category across all urban areas (Barnstaple, Ilfracombe etc) will be investigated before progression to a lower risk category.
- Sites in each risk category will be investigated in accordance with a prioritised order of likely receptors (eg. Harm to human health, pollution of controlled waters, harm to designated ecosystems and damage to property).
- **To be completed by April 2014.**

Rural areas

- All sites in risk category order.
- All potentially contaminated sites in a risk category will be investigated before progression to a lower risk category
- Sites in each risk category will be investigated in accordance with a prioritised order of likely receptors (eg. Harm to human health, pollution of controlled waters, harm to designated ecosystems, and damage to property).
- **Investigations to begin by April 2014 and extend into work programme of next strategy.**

Any area of potentially contaminated land identified after the initial prioritisation of sites for investigation will be risk assessed for inspection priority in exactly the same manner and placed on the list accordingly.

In keeping with the Authority's priorities to protect human health in the first instance, it is possible that land with the potential to adversely affect private drinking water supplies may be identified in the site identification phase. If this pollutant linkage is discovered, enhanced surveillance of private drinking water supplies in the area affected will take place. If contamination of private drinking water supplies is suspected then action will be taken in line with Stage 4 above with site-specific advice obtained from the Environment Agency.

Stage 5A – Council Owned Land

North Devon Council has only limited land holdings within the district and some of these sites are potentially contaminated land. Furthermore, the Council and its predecessors has owned land on which it undertook potentially contaminative practices (e.g. former landfill sites) and in many cases this land has since passed into private ownership. The Authority may also have acquired derelict or brownfield sites in order to encourage redevelopment or provide public facilities.

It is therefore a priority of the Council to address potentially contaminated sites where it is the "Appropriate Person" and to bear the costs of remedial works once the site has been determined. The aim of this action is to eliminate its own liabilities and set an example of best practice for other local public bodies and private companies. It is anticipated that **this work will commence after April 2009 and continue for the duration of the strategy period.**

Stage 6 – Output of Information

All information will be collated and interpreted into formats suitable for the relevant stakeholders. As well as the information necessary for the Environment Agency's national contaminated land report, information will be presented in a manner that enables the public and organisations to clearly understand and monitor this Authority's progress in the management of contaminated land in North Devon. The procedures for information management and communication with the public with respect to contaminated land are covered in Chapters 5,6,7 and 9. **The information procedures will be implemented from September 2009 to February 2014.**

Chapter 4 – North Devon Council Procedures

4.1 Internal Management Arrangements for Inspection and Identification

Within North Devon Council, Environmental Health and Housing Services is the lead service in the implementation of Part IIA of the Environmental Protection Act 1990. As a member of the Environmental Protection Team, the Contaminated Land Lead Officer reports to the Environmental Protection and Emergency Planning Manager and the Head of Environmental Health and Housing Services. The Head of Environmental Health and Housing Services has delegated authority from the Council for the implementation of Part IIA.

Once elected members have approved the Strategy, the Contaminated Land Lead Officer will implement it and have responsibility for the compilation, inspection and determination of "Contaminated Land". This will include the service of Remediation Notices, in consultation with the Head of Environmental Health and Housing Services and Legal and Democratic Services.

4.2 Local Authority Interests in Land

The procedures for the inspection and assessment of local authority owned land are outlined more fully in Chapter 3. The inspection of Council owned land will be a priority in all risk categories and will be primarily undertaken by Environmental Health and Housing Services. Where a pollutant linkage is established and remedial works are necessary, this will be co-ordinated by Property and Technical Services. The same procedure will exist where the Council is designated the "Appropriate Person" for remedial works.

When an area of Council owned land is determined as contaminated, or where the Council is the "Appropriate Person" liable for clean up costs, then elected members will be notified at the earliest opportunity as necessary. *Members will be notified of liabilities and costs accordingly.*

4.3 Information Collection

As discussed in Section 3.2, the most appropriate methods for the collection of information on potentially contaminated land in North Devon is under review at the time of strategy publication. Whatever methods are employed, North Devon Council will consider all reasonably accessible sources of information. Potential information sources that will be utilised in the assessment of the criteria set out in section 3.2 include:

- i) **Evidence that significant harm (as defined in the regulations) or pollution of controlled waters is actually being caused**
Environment Agency – Water Quality records
- ii) **The distribution of any receptors (e.g. human beings, vulnerable ecosystems etc.) throughout the different parts of North Devon**
Environment Agency – Groundwater Vulnerability Maps, Locations of SSSI's
Natural England – Locations of protected organisms and ecosystems
English Heritage – Locations of historic/protected buildings, archaeological sites
DEFRA – Agricultural land uses
British Geological Survey – Geological records
NDC – Population distribution, OS maps
DCC – County Sites and Monuments Register

- iii) **The extent to which any of those receptors is likely to be exposed to a contaminant, e.g. as a result of the use of the land or the geological features of the area.**
Environment Agency - Groundwater Vulnerability Maps, Locations of abstractions, discharge consents, surface waters
British Geological Survey - Geological records
NDC – Planning and Land Use, OS maps
- iv) **Any information on land contamination that is already available.**
Environment Agency – Effects on controlled waters, IPPC applications
Parish Councils – Local knowledge
NDC – Planning records, Building Control records, Council owned land, action already taken to deal with contamination, complaint records
Landmark – Historical use
- v) **The nature and scale of any historical industrial or other activities that may have contaminated areas of land in the past.**
Historical O.S. Maps, Devon Trade Directory, County Archives, Planning Records, Register of former landfill sites, soil maps, Waste management licences, EPA Part 1 Public Register of Authorised Processes
- vi) **The nature and history of past redevelopment in North Devon.**
Public Register, Planning Records, Historic O.S. Maps, Devon Trade Directory, County Archives, Register of former landfill sites
- vii) **Information on any remedial actions that have already been taken by the Authority or others to deal with land contamination problems, or are likely as part of an impending development.**
Planning Records, Actions taken by Council to deal with contamination
- viii) **Information held by other regulatory bodies on the possibility of harm being caused to particular receptors or the likelihood of any pollution of controlled waters in North Devon.**

4.4 Information Management

The North Devon Council Corporate Geographical Information System (GIS) will be the prime tool in the management of contaminated land information. The Council is currently updating its G.I.S. to a more capable model. This will enable the various layers of information we are required to obtain and evaluate, to be layered on the standard landline maps, and show information such as geological conditions, industrial sources, receptors, historical sites, etc. The G.I.S. will be linked to the Contaminated Land software providing immediate site plans of potentially contaminated land and the surrounding area. This will assist in identifying pathways and receptors and subsequently, assessing risk. However, once operational data recovery management and recording will also be linked through the Northgate M3 software 'Contaminated Land Module'.

4.4.1 Complaints

All complaints regarding potentially contaminated land will be dealt with along similar procedures to those currently employed by Environmental Health and Housing Services in the investigation of statutory nuisance complaints.

A complainant can expect: -

1. Their complaint to be logged and the details of the complaint recorded.
2. To be contacted by an officer regarding their complaint within 5 working days of the complaint being received.

3. To be kept informed of progress in the investigation of their complaint and how it is resolved.

Complaint details will be recorded on the Northgate M3 system used the Environmental Health and Housing Services. Any relevant site-specific information obtained in the course of complaint investigations will be recorded on the Contaminated Land software programme.

Every effort will be made to resolve complaints as quickly and efficiently as possible. The regulatory framework for contaminated land does place major constraints on how quickly the process may be expedited. In the course of an investigation, the following matters must be overcome: -

- i) There must be proof or reasonable probability of a viable pollutant linkage before any formal designation of contaminated land. This may only be possible following detailed investigation of the land.
- ii) The local authority must consult interested parties prior to designation as contaminated land.
- iii) A minimum period of 3 months between determination and the service of a remediation notice, unless a site is classed for urgent action.
- iv) The enforcing authority must make every effort to identify the original polluter of the land (or the "class A" persons).

Legislation allows conditions (ii) and (iii) to be waived in extreme cases but conditions (i) and (iv) must be adhered to.

4.4.2 Confidentiality

All complainants will be asked to give their name and address and if possible, the address giving rise to the complaint. A complainant's name will not be disclosed during the course of the investigation. The only circumstance in which these details may be revealed would be in a court of law should a remediation notice be appealed. However, this would only occur in exceptional circumstances. The complainant's details would only be released following prior notification of the complainant.

4.4.3 Anonymously provided information

This Authority does not normally undertake investigations based on anonymously provided information and this policy will continue. However, the policy does not totally preclude the investigation of anonymous information in exceptional circumstances.

4.4.4 Voluntary provision of information

Where an individual or organisation provides information on an area of potentially contaminated land, which does not cause harm to their own health, the health of their families or their property, then this will not be treated as a complaint.

In these circumstances, the information will be recorded and may be acted upon by this Authority. Furthermore, this Authority will be under no obligation to keep the individual or organisation informed of progress in its investigations, although it may elect to do so.

4.4.5 Anecdotal evidence

It is this Authority's intention to utilise anecdotal evidence from Parish Councils, local organisations and individuals in the identification of potentially contaminated land. However, the information provided cannot be used as evidence to support the designation of contaminated land but merely as a starting point for further

investigation. As outlined above, designation can only be supported by robust scientific evidence.

4.5 Information Evaluation

North Devon Council will assess all information relating to potential contamination of a site in accordance with current national guidelines. Land contamination guidelines are influenced by multiple factors, predominantly the protection of public health. However, political influence and broad geological characteristics can also influence national guideline levels.

The Contaminated Land Exposure Assessment (CLEA) guidelines have been developed and released by DEFRA. The CLEA guidelines are based on a site-specific approach and the differences in factors such as geology, type of receptors, nature of pathway etc. means that the guideline contamination level for a contaminant is dependant on those particular individual factors affecting each site.

Advice will be sought from the Environment Agency on risk assessment if controlled waters are the receptor in a particular pollutant linkage. It is anticipated that risk assessments and remediation will be carried out in accordance with Environment Agency guidance as laid down in "Methodology for the Derivation of Remedial Targets for Soil and Groundwater to Protect Water Resources" (EA R&D Publication 20, 1999).

4.6 Interaction with Other Regulatory Regimes

Other regulatory regimes have powers to deal with land contamination and will overlap and complement those powers available under Part IIA.

Land Use Planning

An objective of the North Devon Council Contaminated Land Strategy is to ensure that land contamination is fully addressed in the development or redevelopment of all sites in North Devon district.

Prior to the implementation of Part IIA, the majority of land contamination issues were dealt with through the land use planning system, where land contamination was a material consideration of PPG23. In November 2004, PPS23 'Planning and Pollution Control' was adopted and superseded PPG23. PPS23 is now the most relevant planning policy guidance. While Part IIA will lead to the remediation of "Contaminated Land", it is anticipated that the majority of potentially contaminated land will be addressed through the planning regime, and planning controls will remain a valuable tool in dealing with contaminated land. The "suitable for current use" standard used under Part IIA will not be applied under the planning regime, as a site suitability for the proposed future use is the determining factor for consideration.

The existing consultation procedures between Planning and Development Services, Environmental Health and Housing Services, Building Control and the Environment Agency successfully deal with contaminated land issues. All planning applications on previously developed land shall be considered for potential contaminated land implications.

As part of the identification of potentially contaminated land, any sites detailed under the planning regime will be reassessed to ensure that any specified remediation has addressed all relevant contamination issues.

As the local planning authority for the area, North Devon Council devises a Local Plan, which will be superseded by the Local Development Framework, specifying

which areas of land should be used for which types of development. If the Authority is recommending certain types of development on areas of potentially contaminated land, then some investigation of these sites is required to determine whether it is suitable for that use and whether remedial works are likely to be necessary if the site is developed.

The above actions will enable North Devon Council to identify potentially contaminated sites, establish which sites need remedial works to prevent harm to receptors or controlled waters, and establish an information base on land for development. **It is anticipated that this work will run alongside the main bulk of site investigation work, in the period September 2009 to April 2014.**

Water Resources Act 1991

The Water Resources Act 1991 gives the Environment Agency powers to prevent or remedy pollution of controlled waters. While Part IIA legislation does not revoke these powers, the DETR have indicated that such problems should now be dealt with under the new contaminated land regime, where pollution of controlled waters has been caused by land contamination. The following steps will be taken: -

- Where a pollutant linkage is identified which affects controlled waters, the Council will consult the Environment Agency before any contaminated land determination is made and will take into account the Agency's comments with respect to remediation.
- Where the Environment Agency identifies a pollutant linkage affecting controlled waters, the Council will be notified to enable the land to be designated as contaminated land and identify possible remedial actions.

Environmental Permitting Regulations 2007

The Environmental Permitting Regulations 2007 (EPR) came into force on April 6 2008 and replace the Pollution Prevention and Control Regulations 2000 (PPC). The new Regulations operate in a very similar way to the Pollution Prevention and Control Regulations 2000 (PPC). However, the principal difference between EPR and PPC is that EPR combines elements of the waste licensing regime with elements of PPC to provide a single regulatory framework for the industries which it covers. Local Authorities regulate approximately 80 different types of industry in relation to their potential to cause pollution, in particular to the air environment. The Environmental Permitting Regulations 2007 state exactly which types of installations need to obtain a permit to operate.

Chapter 5 – Liaison and Communication

North Devon Council recognises that contaminated land impacts on many elements of the Council's work and therefore, a multi-disciplinary approach must be adopted in house to address the identification, investigation and remediation of contaminated land in the North Devon district. NDC has tried to foster this approach through establishing open lines of communication between the relevant departments. Indeed most contaminated land work is collaborative and it is necessary to effectively liaise and communicate with other statutory bodies and interested parties.

Where organisations or individuals have information or queries on contaminated land, they will initially be directed to Environmental Health and Housing Services of NDC. Environmental Health and Housing Services will act as the Authority's focus for the collation of contaminated land information and the investigation of complaints or queries regarding contaminated land.

5.1 Statutory Consultees

Contacts should be established with officers of all statutory consultees.

Statutory consultees for the North Devon Council Contaminated Land Strategy are:

- Environment Agency
- Natural England
- English Heritage
- Department for Environment, Food and Rural Affairs (DEFRA)
- Food Standards Agency
- South West Regional Development Agency
- Devon County Council
- Department of Transport, Local Government and the Regions

North Devon Council acknowledges that consultation and liaison with statutory consultees will be necessary, as and when required, and will have regard to the wider historic and archaeological environment when potential mitigation options are being considered and assessed. Subsequently, consideration and regard will be given to the varied legislation and guidance raised by statutory consultees. Interaction and discussion with statutory consultees at an early stage will provide opportunities for gathering and sharing data and ideas at sites designated as contaminated.

Environment Agency area boundaries are defined by river catchments with the North Devon district predominantly in the Devon Area. The primary point of consultation with the Environment Agency will be through the Devon Area Contaminated Land Officer.

5.2 Non-statutory consultees

As detailed earlier, this Authority sees great potential for members of the public, businesses and voluntary organisations to assist in the identification of potentially contaminated land and in the identification of "appropriate persons". To this end, it is intended to publicise not only the Authority's strategy with regard to contaminated land but also how to participate in the implementation of the strategy. As highlighted in Chapter 3 Parish Councils are seen as a valuable source of local information and, where appropriate, Parish Councils will be kept advised of actions with regard sites they identified.

While it is acknowledged this form of consultation may provide a means for “soapboxing” the opinions of aggrieved individuals or organisations, the controls on information outlined in Chapter 4 make it clear that action will only be taken based on robust scientific evidence.

5.3 Communication with Owners, Occupiers and Other Interested Parties

This Authority’s approach to regulatory duties is to seek voluntary compliance before taking enforcement action. This approach will be continued in the implementation of the contaminated land regime. It is recognised that in many cases more effective site remediation can be achieved through agreement rather than enforcement and the regulations seek to foster this approach.

The voluntary approach requires open and effective communication with owners, occupiers and other relevant parties. The Contaminated Land Lead Officer will be the central contact point for the Authority when dealing with contaminated land issues at a site. They will ensure that owners, occupiers and other relevant parties are kept informed of the progress of inspection, whether the site is designated as contaminated land or not.

Where a formal designation of contaminated land is required, the following communication procedures will be followed: -

Determination of an area of contaminated land

- Write to the owner/occupier/appropriate persons at least 14 days prior to formal designation, explaining in summary the reason for determination. If the land is a “special site” or there is a risk of pollution of controlled waters then the Environment Agency will also be formally notified in writing at this time. This procedure for dealing with special sites is set out in section 6.4.
- Write to the owner/occupier/appropriate persons explaining that the land has been designated as contaminated and seeking appropriate voluntary remediation.
- If requested, dispatch a copy of the site-specific risk assessment to the owner/occupier/appropriate persons within 5 working days of receipt of a request for the information.
- Write to the owner/occupiers of neighbouring properties and/or complainant within 5 working days of designation.

Serving a remediation notice

- Approximately two and a half months after designation, write to the owners/occupiers/ appropriate persons to notify them of the Authority’s intention to serve a remediation notice.
- Serve a written remediation notice on the owner/occupier/appropriate persons, specifying actions required.
- Write to owner/occupiers of neighbouring properties and/or complainant within 5 working days of service of remediation notice.

With the possible exception of sites that pose an imminent danger to human health or the environment, this communication procedure on designation and remediation notices will be implemented fully.

5.4 Cross-border Contamination

Should a pollutant linkage be established, where the source of contamination is in North Devon Council area but the receptor is in another local authority’s area, then North Devon Council will be the enforcing authority with respect to that area of contaminated land. In this situation, North Devon Council shall conduct its

investigations and share the findings as appropriate with the local authority in which the receptor is located.

5.5 Powers of Entry

Section 108(6) of the Environment Act 1995 grants Officers appointed by North Devon Council powers of entry to carry out inspections. Where requested by the site owner/occupier at least 7 days notice will be given of intended entry onto any land, unless there is an immediate risk to human health or the environment.

5.6 Enforcement Action

North Devon Council is in the process of reviewing its enforcement policy(s) to ensure consistent, fair and transparent practices are used when taking enforcement action. Until such time as a new policy is adopted, contaminated land investigations will be carried out in accordance with the existing Environmental Health and Housing Services Enforcement Policy.

5.7 Communication with General Public

The complex nature of contaminated land issues and law do not lend themselves to easy explanation to the layperson. This often leads to confusions and mistrust over the Council's actions. The most common misconception is over site remediation, or "clean-up" as it is often described to the public. To the layperson, "clean-up" of a contaminated site means the removal of contaminants, when in reality remediation actions may be the removal of the pathway or the receptor rather than the source of contamination. This can lead to loss of public confidence.

Risk communication is an important factor in addressing contaminated land when dealing with the public and site-specific risk communication strategy is more fully explained in Chapter 7. The most important communication element, that may be employed when dealing with contaminated land, will be the explanation of the risk of significant harm to human health and the environment from the contamination and how the Authority intends to deal with it.

5.8 The Public Register of Contaminated Land

North Devon Council is required to maintain a public register of contaminated land in the district. It is envisaged that the register will be paper based and will be held at the offices of Environmental Health and Housing Services at the Civic Centre, Barnstaple. The register will be accessible to the public during office hours, Monday to Friday.

Written requests for information from the public register will be considered on a case by case basis and it is likely that a charge will be levied for the officer time spent in researching the public register to answer such a request and for photocopying if this is requested.

The contaminated land regulations specify the information that can be recorded on the public register. The public register **does not** include details of potentially contaminated land, or any of the research documents used in the identification of potentially contaminated land.

This specified information is set out in paragraphs 82-100 of Annex 4 of the Statutory Guidance and includes: -

- Site Information – location and extent, reasons for determination, current use
- Remediation notices
- Details of site reports obtained by the Authority relating to remediation notices

- Remediation declarations, remediation statements, and notifications of claimed remediation
- Other environmental controls imposed to deal with contamination
- Designations of land as potential "Special sites"
- Environment Agency site-specific guidance
- Any appeals lodged against remediation and charging notices
- Convictions

In the future, this Authority will explore the development of an electronic based public register, and its inclusion on the Authority's website.

Chapter 6 – Programme for Inspection

The North Devon Council proactive inspection programme is detailed in Section 3.2 'Objectives and Milestones' and essentially comprises of the following stages:

- Site Identification
- Inspection of sites with highest risk rating
- Inspection of potential special sites (this may be done by the Environment Agency)
- Inspection of Council owned land
- Inspection of Local Plan land
- Inspection of all other potentially contaminated land

The timetable for this programme is set out in Chapter 3.

6.1 Detailed Inspection of Potentially Contaminated Sites

Following the identification of potentially contaminated land and the risk assessment and ranking process, the North Devon Council inspection programme contains several stages of detailed site-specific inspections. In order to promote consistency in the designation of contaminated land, this Authority will adopt the procedures outlined below in the detailed inspection of all potentially contaminated sites.

6.2 Site-specific liaison

After determination, the Council will notify site owners, occupiers and appropriate persons of its intention to undertake a detailed inspection of a potentially contaminated area of land. Notification will be made in writing. The owners, occupiers and appropriate persons will be requested to provide any relevant information on contamination of the site and designate a person responsible for co-ordinating their responses to the Council. It is acknowledged that this may be difficult as some of the necessary information could be confidential.

The Council shall ensure from that point that the designated person is kept fully informed on the progress of its inspections and in particular on the likelihood of a pollutant linkage being realised. In the event that a pollutant linkage is established, the Council shall adhere to the procedures outlined in section 5.3 above. In most circumstances, the Council shall seek to secure voluntary remediation of an area of contaminated land, prior to consideration of a remediation notice.

Liaison with the Environment Agency, Natural England and English Heritage will be through the designated area contact. These bodies will be requested to provide any information they hold on historical uses of the site in question, or known contamination, and identify any sources, pathways, or receptors that are of particular concern. Throughout the inspection process, these bodies will be contacted for relevant technical advice and guidance and will be consulted prior to any formal designation of contaminated land.

6.3 Methods of Inspection

Methods for the collection of documentary information will be similar to those identified in Section 4.3. However, at this stage firm evidence of contamination or otherwise is required.

As outlined above, the owners, occupiers, relevant parties, the Environment Agency, Natural England and English Heritage will all be asked to provide site specific information on the presence of contaminants, potential pathways and

known effects on receptors. In particular, owners, occupiers and appropriate persons will be expected to provide details of potentially contaminative incidents and practices that have occurred on site, identifying the likely contaminants. It is expected that any existing site contamination surveys will be made available to the Council for consideration in its determination.

Following assessment of all site-specific documentary evidence, where there is a reasonable possibility that a pollutant linkage exists, then the Council may elect to use its statutory powers of entry to undertake a site inspection. However, this Authority will always attempt to gain access through voluntary agreement in the first instance.

Formal inspection of an area of land will be in the form of a site visit and visual inspection of the land. A visual inspection survey of the site will consider the following issues: -

- Obvious immediate hazards to public health or safety (including to trespassers or the environment)
- Condition of any fences etc. and other factors affecting site security
- Presence, location and condition of surface deposits and made ground
- Signs of settlement, subsidence or disturbed ground
- Location and condition of any remaining buildings, structures, tanks, etc.
- Location of sewers
- Areas of discoloured soil, potentially polluted water, distressed vegetation or significant odours
- Depth of standing water, and direction and rate of flow of water in any rivers, streams or canals
- Position of any outfalls to surface water and the nature/condition of any discharges
- Evidence of seepages through river or canal banks
- Limited sampling of surface deposits, surface waters, hazardous gases, etc
- Evidence of gas production or underground combustion

A photographic record of the visit will be made. Interviews and an inspection of the surrounding area will also be undertaken at the time of the site visit.

Where the Council is satisfied that it is likely the contaminant is actually present and given the current land use the receptor is present or likely to be present, then the Council may use its statutory powers of entry in order to undertake an intrusive investigation of a site.

North Devon Council will not use its statutory powers of entry to undertake an intrusive investigation where: -

- (a) it has already been provided with detailed information on the condition of the land, which provides an appropriate basis upon which the Authority can determine whether the land is contaminated; or
- (b) a person offers to provide such information within a reasonable and specified time and then provides the necessary information within that time.

The nature of the intrusive investigation undertaken by North Devon Council will be determined on site-specific technical considerations and the requirements of the relevant British Standards on the investigation of contaminated land. The Council will ensure that it takes all reasonable precautions to avoid harm, water pollution or damage to natural resources or features of historical or archaeological interest, which may be caused as a result of its investigation. Where the Council intends to undertake intrusive investigation on, or adjoining, a Site of Special Scientific Interest (SSSI), it will consult with Natural England on any action which,

if carried out by the owner or occupier, would require the consent of Natural England under section 28 of the Wildlife and Countryside Act 1981.

If at any stage during the detailed investigation process North Devon Council considers that, based on the information gathered, there is no longer a reasonable possibility that a particular pollutant linkage may exist on the land, then investigation shall cease for that pollutant linkage.

6.4 Special Sites

If land has been determined to be “contaminated land” and it also falls within one or more of the “special sites” descriptions prescribed in the contaminated land regulations, then it is required to be designated as a special site. A special site may include the following: -

- MOD sites
- Land within a nuclear sites
- Land contaminated by oils, waste or acid tars (in, on or under ground)
- Land on which the manufacture, production or disposal of chemical or biological weapons

In these cases, the Environment Agency has a lead role as defined in Regulations 2 and 3 of the Contaminated land (England) Regulations 2000.

Before authorising or carrying out an inspection on any land using statutory powers of entry, North Devon Council will consider whether the land would meet any of the criteria for designation of a special site, if investigation would find that land to be “contaminated land”.

Where North Devon Council has information that the land is a potential special site, it shall notify the Environment Agency in writing of its opinions at the earliest opportunity, via the Devon Area Contaminated Land Officer. The notification will detail those former land uses or pollutant linkages that the Council believes would lead to the designation of the land as a special site.

Should the Environment Agency agree with the assessment of the land made by North Devon Council, then the Council and the Agency will seek to make arrangements for the Agency to carry out the inspection of the land on behalf of the Council. In these circumstances, North Devon Council may authorise a person nominated by the Environment Agency to exercise the statutory powers of entry conferred by section 108 of the Environment Act 1995 on its behalf. North Devon Council will not issue such an authorisation unless it is satisfied that the conditions for use of statutory powers of entry outlined in Section 6.3 above are met.

6.5 Appointment of Consultants and Contractors

North Devon Council may not hold the requisite skills, knowledge or equipment to deal with many aspects of the investigation of potentially contaminated sites. Where it is deemed necessary, elements of the investigation process may be contracted out to third party consultants and contractors. In preparation for the contaminated land regime, North Devon Council will assemble a database of those specialist contractors and consultants who may be employed to deal with specific circumstances as knowledge is gained.

Where it is necessary to appoint external contractors to undertake site investigation, the following procedures shall be followed: -

- A detailed contract brief will be drawn up, outlining the characteristics of the land to be investigated and level of investigation necessary.
- Where possible, at least 3 appropriately qualified contractors will be asked to submit proposals and tender for the investigation.

- The selected tender will be given the go ahead to undertake the investigation. Where necessary, site-specific statutory powers of entry may be conferred upon the selected contractor.

6.6 Risk Communication

Risk communication with respect to the investigation of contaminated land is an important consideration, especially when dealing with high-profile sites over which there may be significant public fear with regard to contamination.

In all instances when dealing with the public, the Council will recognise and try to overcome the critical barriers to effective risk communication as follows:

- **familiarity** – increased concern about unfamiliar issues
- **control** – increased concern if the individual is unable to exert any control over events
- **proximity in space** – increased concern about nearby events/sites
- **proximity in time** – increased concern about immediate consequences rather than long term effects
- **scale** – particularly in terms of media coverage, where one large incident appears much worse than several small incidents
- **“dread factor”** – lack of understanding can lead to stress and make further explanation more difficult

By addressing these barriers in the communication of contaminated land information, the Council believes it should be able to satisfy the public in the provision of information and answering public fears over contaminated land in their locality.

A key tool in the effective communication of information to the public is the guidance document “Communicating Understanding of Contaminated Land Risks” by *Sniffer* (Scotland & Northern Ireland Forum For Environmental Research).

6.7 Frequency of Inspection

North Devon Council views the investigations of contaminated land as an ongoing process, even after all potential sites have been subject to initial investigation and determination. It is anticipated that the majority of changes to usage and layout of potentially contaminated sites following determination, would be identified through the land use planning regime. However, it is likely that some site changes may go unnoticed.

Site changes could lead to the creation of pollutant linkages that did not exist previously. Therefore, North Devon Council intends to adopt a rolling programme to review inspection determinations in light of changes to the land, legislation, contaminated land case law or guideline values for exposure assessment. Consultation with site owners, occupiers, appropriate persons and statutory consultees at the decisions review stage will be in accordance with those procedures contained in sections 5.3 and 6.2.

Chapter 7 - Review Mechanisms

It is highly likely that, during the life of this strategy, events will occur which will require this Authority to challenge the assumptions and information it used in the formulation of this strategy or undertake work outside of the timetable or framework for inspection of potentially contaminated land. This chapter attempts to quantify the unknown and to set out how the strategy will evolve over time.

7.1 Triggers for undertaking inspections

The Council recognises there are occasions where inspections will have to be carried out outside of the inspection strategy framework.

Triggers for non-routine inspection will include: -

- **Unplanned events** – e.g. an incident such as a chemical spill
- **Introduction of new receptors** – proposed housing on a potentially contaminated site, designation of a new protected ecosystem (Note – these changes may only affect the risk rating of the site, which would alter its position in the sequence of inspection, rather than requiring an immediate inspection)
- **Supporting voluntary remediation** – a potentially liable party undertaking clean-up before the land has been inspected by this Authority
- **Identification of localised effects** which appear to relate to a particular area of land
- **Responding to information and complaints** from other statutory bodies, owners, occupiers or other parties

If the strategy is to be effective in addressing land contamination in North Devon then events triggering non-routine inspection must not unduly interfere with the achievement of the strategy's aims and objectives. If the "reactive" component of the investigation of contaminated land does present a greater than expected burden on the Authority, then the strategy's objectives will need to be amended in all strategy reviews.

Section 6.7 above details the criteria which would trigger a review of inspection decisions. It is considered that the changes outlined in that section would only require review of decisions based on the information already obtained, rather than further investigation of a particular site.

7.2 Reviewing the Strategy

As part of the overall approach to contaminated land, it is important to consider the strategy as an evolving document, whose emphasis and direction will change over time. Therefore, it is important that the strategy is reviewed periodically.

The strategy will be published in its final version in April/May 2009, following a period of consultation. However, some of the works identified in this strategy will be implemented and progressed with immediate effect. This will include the compilation of information to form the database of potentially contaminated land. The objectives of this strategy will be reported on an annual basis to the North Devon Council Cabinet.

If the strategy is found to be operating satisfactorily throughout the period of the workplan, then it is anticipated that the first review of the strategy will be undertaken by February 2011. In the event that the strategy creates unacceptable hurdles to successfully dealing with contaminated land in North Devon, it will be amended with committee approval in the intervening years as necessary.

Chapter 8 – Information Management

Whereas most of the information on the management of information in specific elements of the inspection process has been outlined in previous chapters, this chapter seeks to outline how information obtained in the investigation of each site will be managed.

8.1 Data Storage and Accessibility

As detailed in chapter 4, the data assembled in the identification of potentially contaminated land will be transposed onto the corporate GIS system once available and similarly, the Northgate M3 'Contaminated land Module' once available. As it will not include site-specific information, it is considered acceptable that this data is made available to all Services dealing with contaminated land matters. The hard data used in the establishment of the GIS database will be in the format of paper and electronic records and will be controlled by Environmental Health and Housing Services. Site-specific data obtained in the course of detailed investigations will primarily be in the form of paper records and transposed to the computerised system. This will be controlled by Environmental Health and Housing Services.

8.2 Data Confidentiality

Transparency is one of the underlying principles of the Part IIA regime. It is considered vital that the public, landowners, developers and potential purchasers can gain clear, accurate factual information pertaining to the state of the land. Any collected information is likely to be sub-divided into "Public Register Information" and wider "Inspection Information". Details on what information is held on the Public Register can be found in section 5.8.

Detailed information or reports on individual sites produced for the purpose of Part IIA requirements will generally come within the scope of the Environmental Information Regulations 1992. In order to protect ongoing investigations and the confidentiality of information, all requests for site-specific information will be considered by Legal Services, to assess compatibility with the Environmental Information Regulations.

This legal review mechanism for all requests for site-specific information will be of particular value where information provided by third parties is in consideration. In order to protect the interests of the Council, all third parties will be questioned on the status of information at the time of its submission and the justification of why they consider it should remain confidential or subject to national security considerations. Before any third party information is released to other third parties, this Authority will confirm the status of that information prior to release.

8.3 Requests for Information

Requests for information will be considered on a case by case basis and requests for site-specific information will be considered in accordance with procedure for ensuring confidentiality above. It is likely that a charge will be levied for the officer time spent in researching the answer and for photocopying if requested.

8.4 Provision of Information to the Environment Agency

The Environment Agency is required to produce a national state of contaminated land report on an annual basis. In April of every year, this Authority will submit in writing the information outlined in Appendix I, Annexe C of the Memorandum of Understanding: Environment Agency and Local Government Association, pertaining to the previous financial year. Information will also be provided to the Environment Agency, which will include details of any sites that have been determined under Part IIA, using the Environment Agency proforma for the collection of determination information.