

Planning Guidance in relation to Land Contamination

Guidance Document for Applicants, Developers, Land Owners and their Agents in Relation to Land Contamination and Small Residential Developments

This guidance note is for applicants, developers, land owners and their agents, where the following contaminated land condition (or a condition with similar wording) has been attached to the decision notice of a planning approval for a small residential development (for example: one or two houses being built in the garden of an existing property etc).

No works other than the excavation of the foundations and / or piling works for the development shall be undertaken at the site until the CLS2A Contaminated Land Screening Form has been submitted to, and approved in writing by the Local Planning Authority (LPA). Where necessary, a programme of investigation (including soil analysis and/or ground gas monitoring) shall be undertaken at the site in order to enable an assessment of the risks posed by contamination to be carried out. The proposed scheme of investigation shall be agreed with the LPA prior to being undertaken.

Where necessary, a remediation strategy detailing the works and measures required to address any unacceptable risks posed by contamination shall be submitted to, and approved in writing by, the LPA. The strategy shall include full details of the information that will be obtained in order to demonstrate the scheme has been appropriately implemented. The approved remediation scheme(s) shall be fully implemented and a verification / completion report demonstrating this and that the site is suitable for its proposed use shall be submitted to, and approved by, the LPA.

If, during development, contamination not previously identified is encountered, then LPA shall be informed and no further development (unless otherwise agreed in writing with the LPA, shall be undertaken at the site until a remediation strategy detailing how this contamination will be appropriately addressed and the remedial works verified has been submitted to, and approved in writing by the LPA. The remediation strategy shall be fully implemented and verified as approved.

The discharge of this planning condition will be given in writing by the LPA on completion of the development and once all information specified within this condition and any other requested information has been provided to the satisfaction of the LPA and occupation shall not commence until this time unless otherwise agreed in writing by the LPA.

This guidance aims to provide answers to a number of frequently asked questions about land contamination and general guidance in relation to this planning condition. It is therefore important that all parties involved with the development read this document.

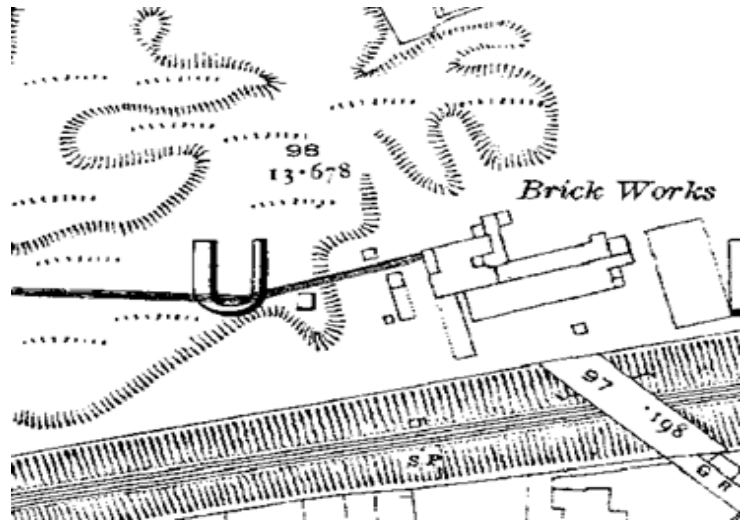
This guidance document and the enclosed CLS2A Contaminated Land Screening Form are not suitable for larger residential developments (e.g. three houses or more) or if the site is on or near to land that has a past industrial use. Where this is the case, you will need to submit a Preliminary Risk Assessment Report (also known as a Phase I Desk Based Study), a Ground Investigation Report and if necessary, a Remediation Strategy and Validation Report to the Local Planning Authority (LPA).

What is land contamination?

Land contamination is a broad term used to describe land that contains substances such as heavy metals (arsenic, lead etc), oils and tars, chemical substances (solvents etc), gases and asbestos etc. Where land has been affected by contamination it may cause harm (or potential harm) to people, the natural environmental and buildings.

How does land become contaminated?

Land contamination may occur naturally or can be associated with the previous use(s) of the site. Tameside has a long industrial history. This means that many areas of the borough have previously been used for industrial activities including mining, textile and dye works, chemical manufacturing, heavy engineering and gas production etc. These industries often used and produced (as by-products or waste) substances which are contaminants. In the past, industry was less well regulated and as a result, these substances may have found their way into the ground as a result of leaks and spillages etc. Because these substances can remain in the ground for many years, they may still be present long after the industries have gone.



Historically, it was also common practice to use waste ash from the furnaces and boilers of old industries (e.g. old cotton mills etc) to level the ground for development. Similarly, ash was often used in agriculture to improve the drainage properties of soil. As ash is commonly associated with a number of contaminants (e.g. arsenic, lead etc) the spreading of it across land may have resulted in contamination.

Tameside also has a number of old landfills, reservoirs, ponds, quarries and brickfields that have previously been infilled. In some cases, this was to level the ground for development. Historically, the landfilling of waste was also less well regulated and as a result, land contamination may have occurred because of these activities.

Why has a contaminated land condition been attached to my planning approval?

All planning applications submitted to the Council are checked against historical mapping. Where a site is identified as being on or near to land that has a past industrial use (e.g. an old chemical works, gas works cotton mill, landfill etc), a contaminated land condition is attached to the planning approval.

The Council also attach contaminated land conditions to all planning approvals for developments with a sensitive end use (e.g. residential, schools, nurseries, allotments, children's play areas and playing fields etc).



This is because we have experience of 'contamination' being found at sites with no apparent previous industrial use (e.g. sites which only ever appear to have been fields and gardens etc). The Council therefore requires the potential for land contamination to be appropriately investigated and where necessary, dealt with during the development of more sensitive sites in order to ensure the protection of future site end users (e.g. residents etc).

What do I need to do next?

In order to comply with the contaminated land condition, you need to complete the CLS2A Contaminated Land Screening Form available from the Council's website (www.tameside.gov.uk, A to Z services, Contaminated Land) or by contacting the Environmental Protection Unit on 0161 342 3680 / 2691. The

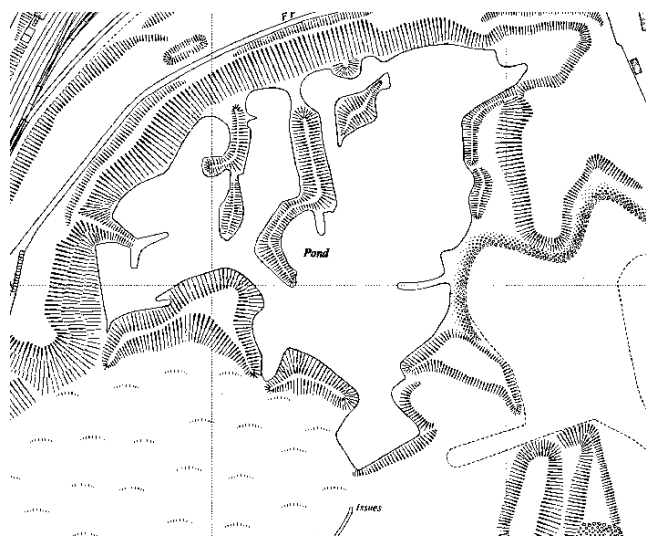
completed form needs to be submitted, together with an 'Approval of Details Reserved by Condition' application, to the Councils Planning Department via the planning portal (www.planningportal.co.uk). If you are unable to do this then please liaise with your agent.



No works other than the excavation of the foundations / piling works must be undertaken at the site until the CLS2A form has been approved in writing and the discharge application has been formally approved by the Local Planning Authority.

The contaminated land screening form refers to ground gas. What is this?

Ground gas and landfill gas generally comprise of methane, carbon dioxide and other trace gases. The gas is produced when buried organic matter (e.g. household waste etc) is broken down by bacteria. Common sources of ground gas include made ground or fill (e.g. non-natural or artificial ground etc) and former pits, ponds, reservoirs, brickfields and quarries that have been infilled usually, to level the ground for development. As the name suggests, landfill gas is associated with old landfills.



Both ground gas and landfill gas can migrate through the ground and may give rise to a number of problems particularly, if the gas migrates to, and accumulates in, a property or confined space. At certain concentrations, methane can form an explosive mixture with the air and carbon dioxide can cause adverse health effects and asphyxiation. Trace gases may cause a range of adverse health effects and odour issues.

Why is a Coal Authority Report required for the site and how do I obtain one?

A Coal Authority Report is needed in order to determine whether there are potentially any shallow coal seams or mine workings beneath the site. This is because coal seams and mine workings may be associated with mine gas. Mine gas is a natural gas generally made up of methane, carbon dioxide and other trace gases, including carbon monoxide. As a result, it can give rise to similar problems as those caused by ground gas and landfill gas particularly, if it accumulates in a confined space or property.

Coal Authority Mining Reports can be ordered online from the Coal Authority www.gov.uk/government/organisations/the-coal-authority. Alternatively, if you have recently purchased the development site it may be worthwhile speaking to your conveyancing solicitor as a Coal Authority Report may already be available for the site. In particular, solicitors will often obtain Coal Authority Reports as part of their standard conveyancing searches.

Do I need to install ground gas protection measures in the development?

The requirement for ground gas protection measures will depend on the ground conditions at the site and whether the development is on or near to any potential sources of ground / landfill / mine gas.



However, as a general rule of thumb, where impermeable, natural ground is encountered at shallow depths in the foundations (e.g. good, stiff clay at depths less than 1 metre etc) and no sources of ground / landfill / mine gas have been identified, the Council do not generally require ground gas protection measures to be installed in the development. Instead, we will leave the decision of whether to install ground gas protection measures in the development to the developer / land owner. This is subject to photographic evidence of the ground conditions being provided.

Alternatively, where this is not the case, the Council generally requires the damp proof membrane to be upgraded to a methane resistant membrane. In some instances, a ventilated subfloor void may also be required (e.g. if significant depths of fill are encountered etc). Further details will be provided once we have received your completed contaminated land screening form.

If the site has not had a previous industrial use, why do I need to test the soil?

If the development proposal includes any garden or soft landscaped areas (either existing or new), you will need to sample and test the soil at the site. This is a standard requirement of the Council and is because we have experience of soils being found to be 'contaminated' even at sites with no apparent previous industrial use (e.g. sites which only ever appear to have been fields and gardens etc). We therefore take a protective approach and require testing in order to ensure soils at the site do not pose a risk to future residents etc. Further guidance on soil sampling and testing is contained in Appendix 1 below.

I am bringing additional soil onto site and the supplier has provided me with a certificate for it. Does it still need to be sampled and tested?

Yes. If you are bringing any soil onto the site as part of the development, including topsoil for garden or soft landscaped areas, this will also need to be sampled and tested in order to confirm that it is not 'contaminated'. This is because the Council does not generally accept soil supplier certificates. The main reasons for this are:

- The test results included on soil supplier certificates are often not sufficient to confirm that the soil being brought onto site is 'uncontaminated'. For example: they generally include test results for only a very limited number of soil samples and the samples have often not been tested for the full range of contaminants required.
- Furthermore, the test results included on supplier certificates often do not relate directly to the soil delivered to site. For example; suppliers may only carry out sampling and testing of their soils every couple of months. This can mean that the test results included on the supplier certificate may not relate directly to samples taken from the stockpile of soil delivered to your site etc.



Further guidance in relation to the sampling and testing of imported soil is included in Appendix 2 below.

When will the contaminated land condition be discharged (e.g. 'signed off')?

The condition will be discharged once all information relating to contaminated land has been received and agreed by the Councils Planning Department and the development as a whole is complete.

What will happen if I don't comply with the contaminated land condition?

Failure to comply with the contaminated land condition could result in the development being referred to the Council's Planning Enforcement Team who may take legal action. It may also affect the future sale of the property. In particular, conveyancing solicitors will often check whether all planning conditions relating to a property have been appropriately complied with and discharged.

APPENDIX 1: General Soil Sampling & Testing Guidance For Developers (SITE SOIL)

- You may wish to take the soil samples yourself or appoint an environmental consultant to undertake the sampling on your behalf. These can be found through an online search.
- The samples may be taken as works progress (e.g. when work is starting on the garden areas etc).
- Before taking the soil samples you will need to submit a plan to the LPA showing the proposed sampling positions. This will need to be agreed with us. When deciding on the sampling positions, the following should be considered:
 - A minimum of 3 soil samples will need to be taken.
 - Ideally, the samples should be positioned in any proposed garden / soft landscaped areas. This is because these are the areas where residents are most likely to come into contact with the soil.
 - The positions should ensure a good coverage is achieved across any garden / soft landscaped areas (e.g. the soil samples shouldn't all be grouped together in a small area of the site etc).
- The Council is unable to recommend a laboratory however, we have included a list of labs at the end of this guidance document that we understand carry out soil testing. Numerous other laboratories are available that also offer a soil testing service. These can be found through an online search.
- The laboratory will usually provide you with the sampling equipment including gloves, a cool box (to store / transport the samples in), sample pots, a pen to label the pots and a 'chain of custody' form.
- The samples must be taken separately and not mixed together.
- The samples should be taken from the near surface (100-300mm etc) and be of made ground, fill, topsoil etc rather than of natural ground (e.g. natural clay, sand, rock etc). If any ground containing ash or clinker is encountered, this must be sampled and tested.
- Photographs should be taken of the soil samples and submitted to the Environmental Protection Unit.
- If any evidence of contamination (e.g. strange staining, odours etc) is encountered during the sampling you must stop work and contact us (0161 342 3680 / 2691).
- You will need to label each of the sampling pots with the following information:
 - A unique sampling reference (e.g. SS1, SS2, SS3 etc)
 - The site address
 - The approximate sampling depth (e.g. 100mm, 200mm etc)
 - The sampling date
- The trowel/spade must be cleaned between each sample to avoid any cross contamination.
- The samples must be stored / transported in the cool box and delivered to the lab a.s.a.p. after sampling together with the completed 'chain of custody' form.
- The following are contaminants that generally need to be tested for (we have no objection to you testing for a wider range of contaminants if you wish);

pH	Asbestos Screen (if any asbestos is identified, quantification analysis will also be required)	Arsenic	Cadmium	Copper
Chromium III & VI	Lead	Mercury	Nickel	Zinc
Vanadium	Speciated PAH (16)	SOM or TOC	Selenium	

- The results of the soil testing will need to be appropriately interpreted and commented upon (a number of labs offer this service or you could appoint an environmental consultant/company).
- If the soil at the site is identified as being 'contaminated' further works may be necessary (e.g. removing the soil or covering it with a layer of 'clean' soils brought onto site etc). Where this is the case, further guidance will be provided.

APPENDIX 2
General Soil Sampling Guidance For Developers (IMPORTED SOIL)

- You may wish to take the soil samples yourself or appoint an environmental consultant to undertake the sampling on your behalf. These can be found through an online search.
- Full details of the imported soil need to be provided to the LPA including the supplier details, confirmation of the total quantity of soil brought onto site and photographs of the soil.
- The number of soil samples that need to be tested depends on the total quantity of soil brought onto site. However, as a general rule of thumb, we generally require 3 samples to be tested per source of soil (for example; if you are bringing soil onto site from two separate soil suppliers, you will need to take a total of 6 samples – 3 samples from each set of soil etc).
- If you are bringing more than 750m³ of soil from any one source please contact the EPU as more than 3 samples may be required.
- The Council is unable to recommend a laboratory however, we have included a list of laboratories that we understand carry out soil testing at the end of this guidance. Numerous other laboratories are available that also offer a soil testing service. These can usually be found through an online search.
- The laboratory will usually provide you with the sampling equipment including gloves, a cool box (to store / transport the samples in), sample pots, a pen to label the pots and a 'chain of custody' form.
- The samples must be taken separately and not mixed together.
- If any evidence of contamination (e.g. strange staining, odours etc) is encountered during the sampling you must stop work and contact us (0161 342 3680).
- You will need to label each of the sampling pots with the following information:
 - A unique sampling reference (e.g. SS1, SS2, SS3 etc)
 - The site address
 - The sampling date
- The trowel/spade must be cleaned between each sample to avoid any cross contamination.
- The samples must be stored / transported in the cool box and delivered to the lab a.s.a.p. after sampling together with the completed 'chain of custody' form.
- The following are contaminants that generally need to be tested for (we have no objection to you testing for a wider range of contaminants if you wish);

pH	Asbestos Screen	Arsenic	Cadmium	Copper
Chromium III & VI	Lead	Mercury	Nickel	Zinc
Vanadium	Speciated PAH (16)	SOM or TOC	Selenium	

- The results of the soil testing will need to be appropriately interpreted and commented upon (a number of labs offer this service or you could appoint an environmental consultant/company).
- If the soil at the site is identified as being 'contaminated' further works may be necessary (e.g. it may need to be removed from site etc). Where this is the case, further guidance will be provided.

Laboratory Contact Details

The Council is unable to recommend a laboratory however, we understand the following undertake soil testing. Numerous other laboratories are available that also offer a soil testing service. These can usually be found through an online search.

Envirolab, Sandpits Business Park, Mottram Road, Hyde, Cheshire, SK14 3AR (Tel: 0161 368 4921)

Eurofins, Broadoak Business Park, Ashburton Road West, Manchester, M17 1RW (Tel: 0161 868 7600)

Pearl Environmental, PO Box 307, Manchester, M12 0AH (Tel: 07748 963 170)

Other Useful Contact Details

Tameside MBC Environmental Protection Unit: General Enquiries Tel: 0161 342 3680 / 2691

Tameside MBC Planning Department: General Enquiries Tel: 0161 342 4460

Tameside MBC Building Control Department: General Enquiries Tel: 0161 342 2637 / 2638

Disclaimer

This guidance document is written to serve as an informative and helpful source of advice. Readers must note that legislation, guidance and practical methods may be subject to change. This Council has taken all reasonable care to ensure the accuracy of the information and data contained in this guidance document. However, the Council, its officers, servants, or agents, will not accept any liability for loss or damage howsoever caused arising from any reliance placed by any other person upon the information and data contained herein, or for any errors or omissions in the information provided.

The responsibility to properly address contaminated land issues, including safe development and secure occupancy, and irrespective of any involvement by this Authority, lies with the owner/developer of the site.