Planning Guidance in relation to Land Contamination

Guidance Document for Applicants, Developers, Land Owners and their Agents in Relation to Land Contamination and the Conversion of Existing Buildings to 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 the conversion of an existing building(s) to a small residential development (e.g. the conversion of an existing public house to one or two houses or apartments etc).

The 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.

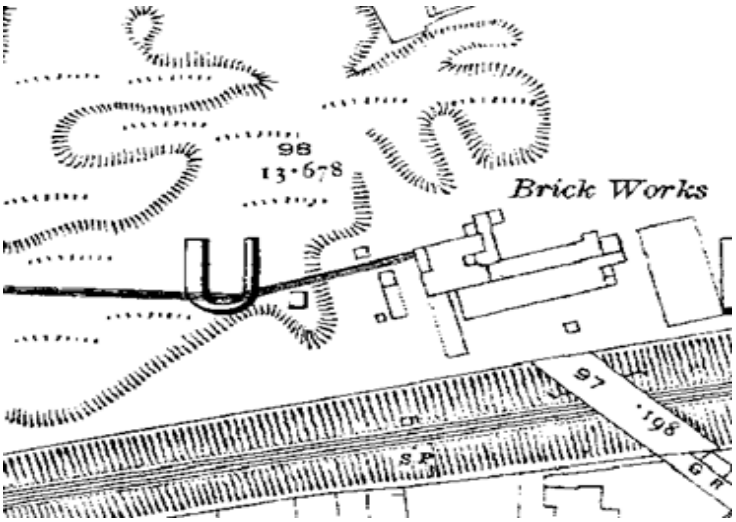
This guidance document and the enclosed contaminated land screening form are not suitable for larger residential developments (e.g. where three or more houses or apartments are proposed etc) or if the site, buildings or adjacent land has a past industrial use. Where this is the case, you will need to submit a Preliminary Risk Assessment Report (also known as a Desk Based Study) and where necessary, a Ground Investigation Report, Remediation Strategy and Validation 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.

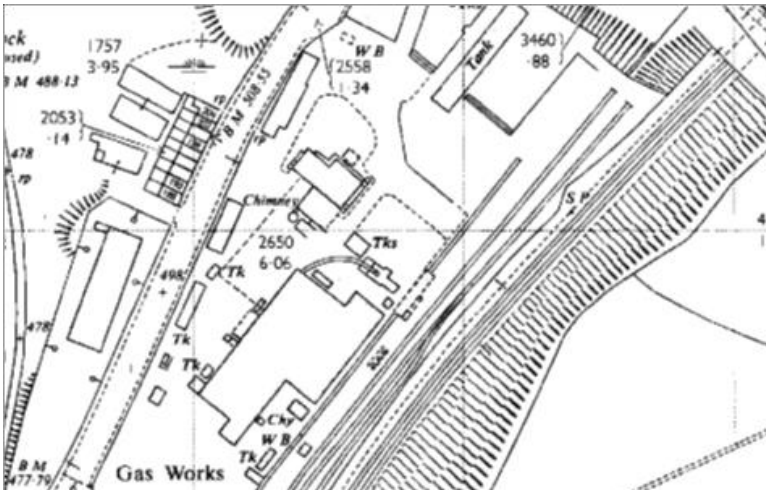


Historically, it was also common practice to use waste ash from the furnaces and boilers of old industries (e.g. old cotton mills etc) to level the ground for development. Similarly, ash was often used in agriculture to improve the drainage properties of soil. As ash is commonly associated with a number 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 (including change of use 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 vulnerable 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 and in buildings with no apparent previous industrial use. In the case of the latter, the most common contaminants tend to be asbestos (associated with the buildings structure etc) and hydrocarbons (associated with old oil fired boilers used for heating etc). The Council therefore requires the potential for contamination to be appropriately investigated and where necessary, dealt with during the development of more vulnerable sites in order to ensure the protection of future residents etc.

What do I need to do next?

In order to comply with the contaminated land condition, you need to complete the CLS2B Contaminated Land Screening Form available from the Councils 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 must be undertaken at the site until the CLS2B form has been approved in writing and the discharge application has been formally approved by the Local Planning Authority.

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 site with no apparent previous industrial use. 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.

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.

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 approximate sampling depth (e.g. 100mm, 200mm 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		

- 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 by the EPU.

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 750m^3 of soil from any one source please contact the EPU as more than 3 samples may be required.

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  - The site address
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- 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 by the EPU.

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.