

REPORT TO SCRUTINY COMMITTEE - COMMUNITY

Date of Meeting: 9 September 2014

Report of: Environmental Health and Licensing Manager

Title: Review of the Council's Contaminated Land Strategy

Is this a Key Decision?

No

Is this an Executive or Council Function?

Council

1. What is the report about?

To update Members on the review of the Council's Contaminated Land Strategy, and forthcoming consultation.

2. Recommendations:

That Scrutiny Committee – Community:

- 1) note the draft revised Contaminated Land Strategy; and
- 2) support the consultation on the draft revised strategy.

3. Reasons for the recommendation:

The City Council first published its Contaminated Land Strategy in 2001. Since then, there have been changes to the legislation and statutory guidance, and the strategy has been updated to reflect these. The Council is undertaking consultation on the draft strategy, specifically involving the Environment Agency, Devon County Council, neighbouring authorities, Natural England and Public Health England.

The draft revised strategy is attached in Appendix 1.

4. What are the resource implications including non financial resources.

The revised Contaminated Land Strategy will be implemented within existing resources. The Strategy explains how the Council, in its approach to land contamination will seek to minimise unnecessary burdens on the taxpayer, businesses and individuals, where it is reasonable and practicable to do so.

5. Section 151 Officer comments:

There are no financial implications.

6. What are the legal aspects?

Section 57 of the Environment Act 1995 created Part 2A of the Environmental Protection Act 1990 ("Part 2A") which establishes a legal framework for dealing with contaminated land in England. Part 2A requires that local authorities cause their areas to be inspected with a view to identifying contaminated land, and to do this in accordance with published Statutory Guidance.

The Statutory Guidance was updated in 2012. It requires that local authorities should take a strategic approach to carrying out their inspection duties. This approach should be rational, ordered and efficient, and it should reflect local circumstances. The local authority should set out its approach as a written strategy, which it should formally adopt and publish to a timescale to be set by the authority.

The local authority should keep its written strategy under periodic review to ensure it remains up to date. It is for the authority to decide when its strategy should be reviewed, although as good practice it should aim to review its strategy at least every five years.

7. Deputy Monitoring Officer's comments:

I have nothing further to add to those already contained in the report.

8. Report details:

In the revised strategy which covers the period from 2014 to 2019, the Council sets out:

- its aims, objectives and priorities, taking into account the characteristics of its area;
- the relevant aspects of the Exeter area;
- its approach to strategic inspection, the prioritisation of detailed inspection and remediation activity;
- how Part 2A fits with its broader approach to dealing with land contamination, using other legislation, voluntary remediation or as part of wider regeneration work; and
- how in its approach to Part 2A and land contamination, the Council will seek to minimise unnecessary burdens on the taxpayer, businesses and individuals, where it is reasonable and practicable to do so.

The Council is undertaking consultation on the draft strategy, specifically involving the Environment Agency, Devon County Council, neighbouring authorities, Natural England and Public Health England. Consultation will commence on 1 September 2014 and last 6 weeks.

9. How does the decision contribute to the Council's Corporate Plan?

The main contribution of effective management of contaminated land is to support the purpose of Keep me / my environment safe and healthy and building a stronger city. In achieving this, it is necessary to work with developers through the planning system to deliver good development.

10. What risks are there and how can they be reduced?

Risks associated with the failure to manage contaminated land include risks to the population of Exeter, those working in the city, and risks to the environment. There is also a reputational risk to the Council if it fails to act in a reasonable manner. Failure to make a reasoned judgement on contaminated land could result in legal action or insurance claims,

particularly in the case of land owned by the Council, or poor risk assessment decisions made by Council officers.

11. What is the impact of the decision on equality and diversity; health and wellbeing; safeguarding children, young people and vulnerable adults, community safety and the environment?

Land contamination has the potential to affect the health, safety and wellbeing of residents or those using the site. It can also cause harm to the environment. Effective management of land contamination involves understanding these risks, and delivering mitigation where assessment identifies that this is necessary, reasonable and practical.

12. Are there any other options?

Adoption of a Contaminated Land Strategy is a legal duty.

Assistant Director Environment

Local Government (Access to Information) Act 1972 (as amended)

Background papers used in compiling this report:-

None

Contact for enquires:

Democratic Services (Committees)

Room 2.3

01392 265275