



Westminster City Council

Contaminated Land Guidance for
Developers submitting planning
applications

Introduction

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

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

The requirements for remediating land under the planning process are not the same as remediating land under Part IIA of the [Environment Protection Act 1990](#), and this guidance does not cover this. It should be noted the information that we would request is very similar. For details on Part IIA please see Contaminated Land Statutory Guidance https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/223705/pb13735cont-land-guidance.pdf.

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

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

The Council's Approach

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

National Planning Policy Framework

Introduced in 2012 the [National Planning Policy Framework](#) (NPPF) replaced numerous forms of guidance including PPG23 (Planning and Pollution Guidance). With regards to contamination the NPPF states in section 11:

- *The planning system should contribute to and enhance the natural and local environment by;*
- *preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability;*

Procedure for dealing with potential land contamination during the planning process

- *remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate;*
- *Planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value. Local planning authorities may continue to consider the case for setting a locally appropriate target for the use of brownfield land;*
- *the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation;*
- *after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990.*

The Planning Process

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

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

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

Upon completion of the development, we require the submission and approval of a validation report confirming the agreed remediation strategy has been implemented and, if any unidentified contamination was discovered during development, how this was remediated.

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

Liaison with the council

Where a developer is looking to develop land that has the potential for contamination, developers can contact the [Environmental Science team](#) prior to submitting a planning application. Westminster City Council provides an Environmental search service. This service is chargeable, see the council's [Contaminated Land web page](#) for more information.

The council also provide a Planning Pre-Application advice service which is chargeable. See the council's planning web page.

<https://www.westminster.gov.uk/planning-building-and-environmental-regulations/planning-applications/request-pre-application-planning-advice>.

Basement Developments

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

Radon

For planning applications that include a basement, as per UK Health Securities Agency (formerly Public Health England) document titled: '[UK National Radon Action Plan](#)' published in 2018 it states: 'Radon measurements should be made in regularly occupied basements of properties irrespective of their geographical location (HPA, 2010)'.

Based on this guidance, planning applications that include a basement must be accompanied by a contaminated land assessment that includes an assessment for Radon, irrespective that the whole of Westminster is in the lowest band of radon potential where less than 1% of homes are affected by radon.

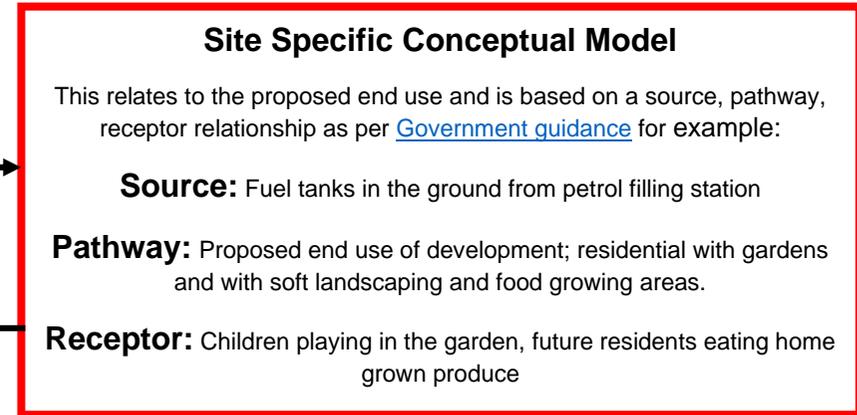
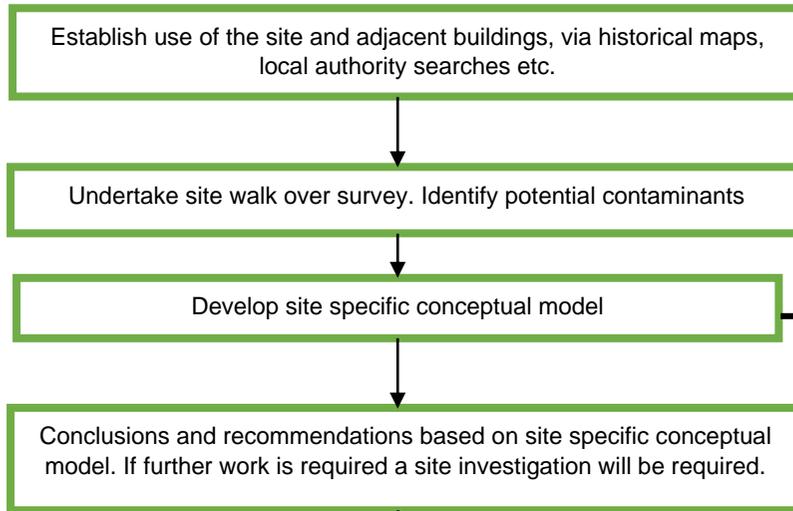
Assessment of Radon levels as part of a planning application should include consideration of appropriate mitigation measures. Mitigation could be achieved by design and the submitted assessment must demonstrate the design and/or construction of the basement would be such, that it would mitigate against adverse impact from Radon on human health.

Assessments of Radon levels including monitoring, where required and or any proposed mitigation measures should be undertaken by an appropriately qualified Environmental Consultant.

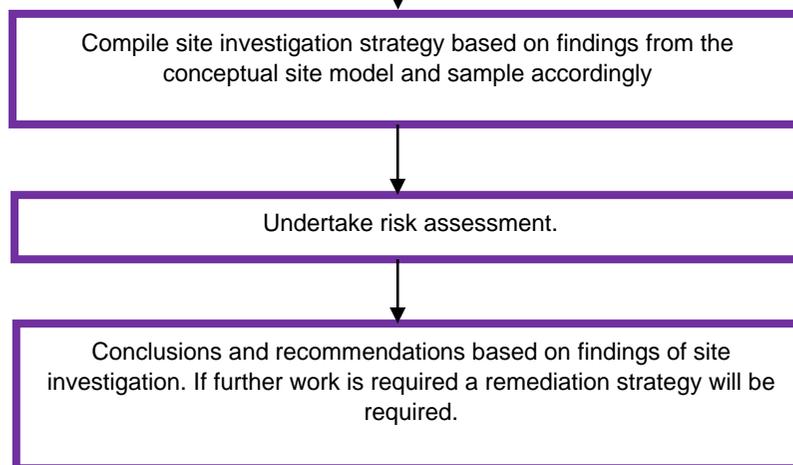
Procedure for dealing with potential land contamination during the planning process

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

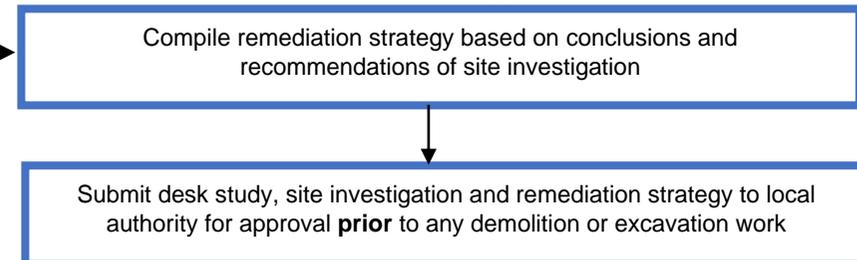
Phase 1 Desk Study



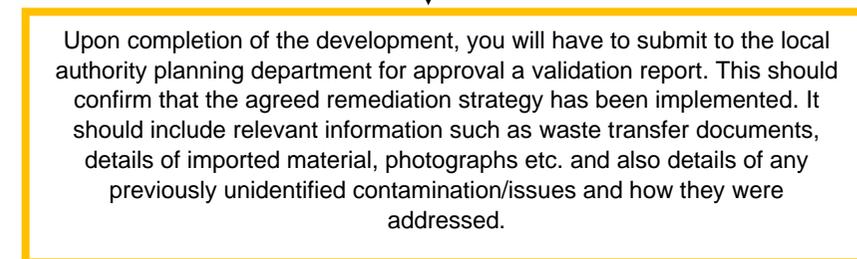
Phase 2 Site investigation



Phase 3 Remediation strategy



Phase 4 Validation Report



Useful Contacts:

Environmental Science environmentalsciences2@westminster.gov.uk

Useful Links/Information:

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

<https://www.westminster.gov.uk/sites/default/files/media/documents/ESPD%20Consultation%20Draft%20Final.pdf>

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

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

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

<https://www.gov.uk/government/collections/radon>

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/766090/UK_National_Radon_Action_Plan.pdf

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

<https://www.ukradon.org/>

Appendix 1

Westminster City Council Full Contaminated Land Condition (C18AA)

Pre Commencement Condition

You must carry out a detailed site investigation to find out if the building or land are contaminated with dangerous material, to assess the contamination that is present, and to find out if it could affect human health or the environment. This site investigation must meet the water, ecology and general requirements outlined in 'Contaminated Land Guidance for Developers submitting planning applications' - produced by Westminster City Council in October 2022 or any amendments.

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

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

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

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

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