

Burnley Borough Council Contaminated Land Strategy 2021-2026

REPORT TO EXECUTIVE



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PORTFOLIO	Community & Environmental Services
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PURPOSE

1. To seek approval and adoption of the reviewed Burnley Borough Council Contaminated Land Strategy 2021-2026

RECOMMENDATION

2. That the Executive approve and adopt The Contaminated Land Strategy 2021-2026 (The Strategy) as set out in Appendix A to this report.

REASONS FOR RECOMMENDATION

3. Government guidance recommends that the Strategy is reviewed every 5 Years. The Strategy was last reviewed in 2015. There have been no significant changes to the Strategy since the last review.

SUMMARY OF KEY POINTS

4. There have been no significant changes to the report since it was last adopted in 2015.
5. **Background to legislation:** England has a considerable legacy of historical land contamination involving a very wide range of substances. Burnley`s industrial history was mainly based on wool, but was then superseded by cotton spinning, and then weaving. This growth was concentrated near the valley bottoms where mills used the river to power equipment and where the canal, rail and early road links aided the transportation of goods. Coal mining and engineering was historically dominant as well. On all land there are background levels of substances, including substances that are naturally present as a result of our varied and complex geology and substances resulting from diffuse human pollution. On some land there are greater concentrations of contaminants, often associated with industrial use and waste disposal.
6. Part 2A of the Environmental Protection Act 1990 provides a means of dealing with unacceptable risks posed by land contamination to human health and the environment.

The starting point should be that land is not contaminated land unless there is reason to consider otherwise. Only where unacceptable risks are clearly identified by a risk assessment undertaken in accordance with the Statutory Guidance, should land be considered as meeting the Part 2A definition of contaminated land.

7. Revised DEFRA Guidance in April 2012 gave greater clarity to regulators as to how to decide when land is and is not actually contaminated land and enables local authorities to take a more targeted approach which remains precautionary rather than a blanket approach which is over cautious.
8. The overarching objectives of the Government's policy on contaminated land and the Part 2A regime are:
 - (a) To identify and remove unacceptable risks to human health and the environment.
 - (b) To seek to ensure that contaminated land is made suitable for its current use.
 - (c) To ensure that the burdens faced by individuals, companies and society as a whole are proportionate, manageable and compatible with the principles of sustainable development.
9. **Suitable for use:** In Burnley inspection, identification and remediation of land is usually undertaken as part of the development control process. This is recognised to be the most appropriate and efficient way to address the issues associated with contamination, with the onus being on the developer/ applicant to demonstrate the suitability of any land for redevelopment. Land is then remediated by consent.

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

10. Although the Councils approach to Part 2A will normally be via the development control process, there may still be a need to investigate potential areas of contamination that have been notified to the Council from members of the public. In these circumstances the Council will undertake any necessary investigation to establish if contamination exists and who would be responsible for remediation. Where enforcement action is required and a remediation notice served the Council may need to carry out the remediation works at it's own expense before seeking recovery as a civil debt. Additionally, there may be financial implications where responsibility cannot be determined and the site is declared as 'orphaned'. In these circumstances, the financial responsibility for any remediation may fall upon the Council.

POLICY IMPLICATIONS

11. Part 2A section 78B(1) requires the local Authority to take a strategic approach to carrying out its inspection duty. This approach should be set out in a written strategy, formally adopted and published. A periodic review of the strategy must be undertaken to ensure it remains up to date. The Local authority should aim to review its strategy every 5 years.

DETAILS OF CONSULTATION

12. No formal public consultation required to adopt the strategy. Once approved the Strategy will be published on the Councils website

BACKGROUND PAPERS

13. Environmental Protection Act 1990 Part 2A

14. Environmental Protection Act 1990: Part 2A: Contaminated Land Statutory Guidance
April 2012. www.defra.gov.uk

FURTHER INFORMATION

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