

Forest Heath District Council

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Report of the Cabinet Member for Environment and Waste

CABINET

9 APRIL 2013

CAB13/084

DEVELOPING A WEST SUFFOLK CONTAMINATED LAND STRATEGY (Key Decision Reference: ARP13/07)

1. Summary and reasons for recommendation

- 1.1 To achieve a shared approach to policy and service delivery for the people of West Suffolk and meet statutory obligations under Part 2A of the Environmental Protection Act 1990, Forest Heath District and St Edmundsbury Borough Councils have developed a draft West Suffolk Contaminated Land Strategy.
- 1.2 Once adopted this will replace the Councils' current strategies. A copy of the revised Strategy is provided at Appendix 1 which will be subject to stakeholder consultation prior to adoption by the Councils.

2. Recommendation

- 2.1 Cabinet to approve for stakeholder consultation the proposed West Suffolk Contaminated Land Strategy presented in Appendix 1.**

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3. How will the recommendations help us meet our strategic priorities?

3.1 The two Councils are now working together towards a shared policy and service delivery model. Revising and consolidating the two Councils' existing Contaminated Land Strategies to develop a single West Suffolk Strategy takes account of changes to the legislation and to legal and technical guidance which have occurred since these strategies were adopted. There has therefore been a need to review and develop a strategic approach for West Suffolk, acknowledging the local similarities and differences that exist in the locality.

4. Key Issues

4.1 West Suffolk is generally fortunate to have experienced relatively little historical land use which has led to land becoming so damaged as to pose a serious threat to our health or the environment. However, nationally land contamination presents its own threats to sustainable development by denying local people a clean and healthy environment, preventing prudent use of land and soil resources, and placing a high cost burden on individuals and organisations that have to clean up pollution.

4.2 Local authorities have a statutory duty under Part 2A of the Environmental Protection Act 1990 to publish their strategic approach to tackle land contamination. FHDC and SEBC adopted their current Contaminated Land Strategies in 2011 and 2005 respectively. Each Council is the lead regulator in their respective administrative areas for contaminated land and works in partnership with other organisations such as the Environment Agency.

4.3 The proposed West Suffolk Contaminated Land Strategy (Appendix 1) forms part of a framework affecting the quality and use of land locally. It follows the principles of Sustainability to protect and improve human health and the local environment. It supports the aims and objectives set out in both Councils' corporate priorities and plans and the emerging West Suffolk Sustainable Development Strategy. It also complements planning policies contained in the Local Development Framework, in particular for new development in existing urban areas by promoting the use of brownfield sites.

4.4 The priorities by which both Councils will deal with contaminated land are outlined in the revised Strategy and include the following:

- Protecting from pollution of human health, controlled waters, designated ecosystems and damage to property
- Encouraging sustainable clean-up practices to return land to a condition that it is fit for use
- Encouraging re-use of previously developed and/or brownfield land.

4.5 The abovementioned priorities will continue to be delivered by the Councils by undertaking the following statutory duties:

- Inspecting the district to identify Contaminated Land
- Consulting with relevant persons regarding pollution
- Deciding whether contaminated land should be classed as a Special Site
- Notifying relevant persons that land is contaminated
- Deciding upon remediation requirements
- Apportioning liability where possible
- Maintaining a public register for "determined" contaminated land sites.

5. Other options considered

- 5.1 Not taking action – this would leave the two Councils open to challenge that they were not employing current relevant legislation and statutory guidance appropriately to implement the Contaminated Land Regime in their administrative areas.
- 5.2 Bringing together the two existing strategies into one reflects the new shared way of working that has been adopted by the two authorities, which is helping to bring efficiencies and resilience.

6. Community Impact

6.1 Crime and Disorder Impact *(including Section 17 of the Crime and Disorder Act 1998)*

- 6.1.1 No crime and disorder impacts have been identified arising from consolidating the two strategies into one.

6.2 Diversity and Equality Impact *(including the findings of the Equality Impact Assessment)*

- 6.2.1 An Equalities Impact Assessment has been undertaken. No human rights or diversity implications have been identified arising from consolidating the two strategies.

6.3 Sustainability Impact *(including completing a Sustainability Impact Assessment)*

- 6.3.1 A Sustainability Impact Assessment has been undertaken. The draft Strategy is aligned with the principles of Sustainability; achieving a balance between the social, economic and environmental concerns whilst meeting our statutory obligations and corporate priorities.

6.4 Other Impact *(any other impacts affecting this report)*

- 6.4.1 This work supports the Council's public health and wellbeing responsibilities.

7. Consultation *(what consultation has been undertaken, and what were the outcomes?)*

- 7.1 It is proposed to consult key organisations which may have a role to play in implementing the proposed Strategy. These will include internal (e.g. the Planning Service) and external stakeholders (e.g. the Environment Agency).
- 7.2 The findings of the consultation will be taken into account when a final draft of the Strategy is put forward for adoption by the Council.

8. Financial and resource implications *(including asset management implications)*

- 8.1 Staff and operational financial resources to deliver the proposed Strategy are already accounted for in the Council's revenue budget. However, there may be resource implications in the event of a site being formally determined as

Contaminated Land for which the Council has a statutory responsibility to clean up. This additional cost would be subject to Cabinet approval.

9. Risk/Opportunity Assessment *(potential hazards or opportunities affecting corporate, service or project objectives)*

Risk area	Inherent level of Risk (before controls)	Controls	Residual Risk (after controls)
Public Health	Moderate	Implementing the proposed Strategy will ensure that existing and future users of land are protected from significant harm which could arise from land contamination	Low
Statutory Responsibilities	High	The Council has a statutory responsibility to identify and secure clean-up of land contamination. The proposed Strategy will help to ensure that appropriate resources and effort are being used	Low
Reputational	High	It is important that the Council delivers on its strategic responsibilities to maintain and enhance health and wellbeing in the district	Low
Financial	Low	The proposed draft Strategy has no significant financial impact. Additional financial and other resources may be required in the event that specific sites for which the Council has responsibility require investigation and subsequent clean-up.	Medium/low

10. Legal and policy implications

10.1 Detailed legislation regulates land contamination; specifically, Part 2A of the Environmental Protection Act 1990 requires Councils to have a Contaminated Land Strategy and places duties and responsibilities on the Council to monitor, investigate and manage clean-up to suitable standards.

10.2 This work accords with the corporate visions of clean, green, safe and prosperous by ensuring that land is in a suitable state such that it does not cause significant harm to the public, wider damage to the environment and is fit for its use.

11. Wards affected

11.1 All wards in West Suffolk are covered by the existing strategies and will continue to be so under the proposed draft Strategy once it has been adopted.

12. Background papers

12.1 Report No COM11/353 to Community Services Committee on 13 November 2011.

13. Documents attached

13.1 Appendix 1 - Proposed West Suffolk Contaminated Land Strategy