

## **Cabinet**

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**Date of Meeting:** 2<sup>nd</sup> February 2021

**Report Title:** Cheshire East Contaminated Land Strategy 2021

**Portfolio Holder:** Councillor Mick Warren – Portfolio Holder for Communities

**Senior Officer:** Frank Jordan – Executive Director Place

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### **1. Report Summary**

- 1.1. Part 2A of the Environmental Protection Act 1990 deals with the identification, prioritisation, determination and remediation of contaminated land. The legislation places a statutory duty on local authorities to inspect their area for the purpose of identifying potentially contaminated sites and for the further inspection of such sites.
- 1.2. Under statutory guidance local authorities should take a strategic approach to the identification of land which merits detailed individual inspection. The guidance confirms that local authorities should keep their strategies under periodic review to ensure it remains up to date.
- 1.3. In 2015, Cheshire East Council adopted the current Contaminated Land Strategy, and following a full review, we have now produced a revised draft Strategy which will be tested through a consultation exercise.

### **2. Recommendations**

#### **2.1. That Cabinet**

- 2.1.1. Authorises the Director of Environment and Neighbourhoods to formally consult on the draft Contaminated Land Strategy for a period of 6 weeks.

2.1.2. Notes that Environment and Regeneration Overview and Scrutiny Committee will consider the revised draft and result of consultation once that is completed.

2.1.3. Delegates authority to the Director of Environment and Neighbourhood Services in consultation with the Portfolio Holder for Communities to consider the results of the consultation and to approve the final version of the strategy.

### **3. Reasons for Recommendations**

- 3.1. It is a statutory requirement that Local Authorities have a Contaminated Land strategy in place under Part 2A of the Environmental Protection Act 1990. The strategy needs to reflect changes in legislation and government guidance as well as local requirements.
- 3.2. It is important that the strategy is reviewed to ensure that it remains fit for purpose as highlighted by statutory guidance, plus it is also good practice to review the strategy at least every five years.

### **4. Other Options Considered**

- 4.1. There was no other alternative option considered. The current strategy was adopted in 2015 and it is good practice to ensure that the objectives and information within the document are updated so they remain reliable and relevant.

### **5. Background**

- 5.1. Section 57 of the Environment Act 1995 amended the Environmental Protection Act 1990 by inserting Part 2A. This part and its supporting statutory guidance and regulations<sup>1</sup> gave Local Authorities powers and duties relating to contaminated land, one of which is the requirement to develop and publish a strategy for its identification and remediation. The Contaminated Land (England) Regulations 2000 were repealed and replaced by The Contaminated Land (England) Regulations 2006 which took into account a provision for radioactive contaminated land. 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.

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<sup>1</sup>The Contaminated Land (England) Regulations 2006

(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.

5.2. The Government issued updated Contaminated Land Statutory Guidance in April 2012, which describes how Local Authorities should implement the above regime.

5.3. 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 the Contaminated Land Statutory Guidance. The Local Authority should also set out its approach to its inspection as a written strategy and aim to update this document at least every five years.

5.4. The draft strategy is designed to ensure a consistent ordered approach to the task of inspection. This approach should be rational, ordered and efficient, and it should reflect local circumstances. The objectives of this strategy are:

- To meet the requirements of the statutory guidance
- To detail a strategic approach to be followed for the inspection of land within Cheshire East and in accordance with criteria laid down in statutory guidance.
- To make information available to all relevant services of the Council and facilitate the consideration of contaminated land in policy making processes.
- To ensure all relevant services of the Council have the information to enable potential liability issues from land ownership to be assessed.
- To minimise the potential for unnecessary blight of land.
- To provide information to the Environment Agency for its report production requirements and to assist in the fulfilment of its regulatory functions.
- To inform all stakeholders of the Authority's intentions in circumstances of land contamination.
- To provide a suitable review mechanism of the strategy in line with new information, guidance or statute.

5.5. Following the compiling of responses at the end of the consultation period, amendments and changes will be added to the draft strategy, if applicable. The final draft of the strategy will then be considered by the Environment and Regeneration Overview and Scrutiny Committee, before being presented to the Director of Environment and Neighbourhood

Services in consultation with the Portfolio Holder for Communities, to consider the results of the consultation and to approve the final version of the strategy.

## **6. Implications of the Recommendations**

### **6.1. Legal Implications**

6.1.1. The Contaminated Land Strategy outlines the Authority's approach to dealing with contaminated land within its area (in line with the 2012 statutory guidance) and how it will discharge its duties prescribed by Part 2A of the Environmental Protection Act 1990.

### **6.2. Finance Implications**

6.2.1. The report was compiled internally and funded from existing Regulatory Services and Health (RS&H) staffing budgets, as will any costs associated with the consultation.

6.2.2. There are no further direct financial implications as a result of the development of the strategy and the consultation. However any site investigation work undertaken, would potentially result in further costs and this may have an impact on the Estates budgets.

### **6.3. Policy Implications**

6.3.1. There are no direct Policy implications arising from this report.

### **6.4. Equality Implications**

6.4.1. There are no direct equality implications arising from this report.

### **6.5. Human Resources Implications**

6.5.1. There are no direct HR implications arising from this report.

### **6.6. Risk Management Implications**

6.6.1. Failure to take contaminated land into account as part of all relevant decisions could ultimately affect the health of Cheshire East residents.

### **6.7. Rural Communities Implications**

6.7.1. There are no direct implications for rural communities specifically; however, the strategy will apply to the whole borough of Cheshire East, including all rural communities.

## **6.8. Implications for Children & Young People/Cared for Children**

6.8.1. There are no direct implications for children and young people.

## **6.9. Public Health Implications**

6.9.1. The implementation of the Contaminated Land Strategy aims to improve public health.

## **6.10. Climate Change Implications**

6.11. The Council has committed to becoming carbon neutral by 2025, and to encourage all businesses, residents and organisations in Cheshire East to reduce their carbon footprint. There are no implications from this draft strategy that will impact on this commitment.

## **7. Ward Members Affected**

7.1. Borough wide.

## **8. Consultation & Engagement**

8.1. This report requests authority to consult externally with statutory consultees, Members and residents of Cheshire East.

## **9. Access to Information**

9.1. The full draft Contaminated Land Strategy accompanies this report.

## **10. Contact Information**

10.1. Any questions relating to this report should be directed to the following officer:

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