

Please note that under the Environmental Information Regulations 2004 grounds for refusal to provide information may apply.

Should I test the soil of my property?

Investigation and testing of soil for contamination is a complex and expensive action. Local authorities rarely endorse such action by householders and would always expect and recommend such action to be undertaken by a suitably qualified consultant. The local officer responsible for contaminated land may be able to comment on results obtained but no guarantee can be given that the site will never be classified as 'Contaminated Land' as further information may emerge or future changes may be made to the law or technical guidance.

Why does contamination matter?

On some sites contamination may be a risk to those living on or near the property. Should remedial work be required to minimise the risk it will normally be the responsibility of the polluter or in some cases the builder/developer of the houses. In some circumstances it might be that responsibility for remediation is that of the current land or property owner.

What is being done about this problem?

All of the councils listed at the end of this guide have produced a Contaminated Land Inspection Strategy detailing how they are going to investigate and tackle potentially contaminated sites. Please note sites will not be inspected simply in response to a request to do so. Further information can be obtained from the local authorities themselves.

Whose decision?

It is only the local authority who can determine whether a site is 'Contaminated Land'. It may be possible for additional information to come to light

in the future that would cause the site to be re-inspected.

All prospective purchasers of property are recommended to make all necessary enquiries to obtain all the available information on any issue. However, it is ultimately the purchaser or mortgage lender who will have to decide whether it is a significant issue of concern and take out any insurance cover if considered necessary.

Local Authority Contacts:

Bromsgrove District Council:	01527 881288 pe@bromsgrove.gov.uk
Herefordshire Council:	01432 261761
Malvern Hills District Council:	01684 862151
Redditch Borough Council:	01527 64252
South Shropshire District Council:	01584 813386
West Oxfordshire District Council:	01993 861385
Worcester City Council:	01905 722569
Wychavon District Council:	01386 565231 contaminated.land@wychavon.gov.uk
Wyre Forest District Council:	01562 732583

To request a copy of this document in larger print or audio format or if you need help understanding it in your own language please phone your local authority contact above.

Guide to Contaminated Land for Homeowners, Prospective Purchasers and Solicitors



Produced by Member Authorities of
Herefordshire & Worcestershire Contaminated Land Group



July 2008

Who should be reading this Guide?

This guide is aimed at homeowners, prospective homebuyers, home-sellers and their solicitors undertaking conveyancing work. This guide aims to explain;

- what contaminated land is;
- how and why it is an issue for both current and prospective purchasers;
- what information or guidance your local council can provide; and
- the options available should you find yourself affected by land contamination.

Why contamination may be a problem

Many areas of land in the United Kingdom have been subject to a previous use which may have resulted in contamination of the land, the most significant are those involving industry or waste disposal. From the industrial revolution until recently very little control was placed over the use of raw materials and ultimate disposal of any wastes. This lack of control led to many sites becoming contaminated. Contamination can also arise due to the spillage of fuels or oils for example from service stations and heating oil tanks.

The current contaminated land legislation (Part 2A of the Environmental Protection Act 1990) was introduced in 2000 and has contributed to an increased awareness of contamination issues. Many former industrial sites have been redeveloped historically and it is possible that contamination was not considered at the time of redevelopment or may not have been addressed appropriately.

Contamination is not always an issue

On former and current commercial/industrial sites there are a wide range of potential contaminants that may be present. These can for example include oils, fuels, ash, clinker, slag, solvents,

preservatives, tars, acids, domestic waste, organic material and heavy metals or metalloids.

In most cases, there will be little or no risk associated with living on, or near to land that has had a former industrial use.

The development of brownfield land is controlled by planning conditions to ensure contamination issues are effectively investigated, treated and validated. Effects from former industrial land are more likely to be due to a perception of risk affecting the value of property rather than any actual effects on the health of occupiers.

Land contamination only becomes an issue if there is a pathway that would allow human health, buildings, controlled waters or certain protected ecosystems to be affected by contamination. The legal definition of contaminated land is complex and there is a strict legal test, which means not all sites which have contaminants present on them will be determined as 'Contaminated Land'.

Environmental Search 'Certificates'

Since the implementation of the contaminated land legislation, a solicitor, during conveyancing, may commission an environmental search with a commercial environmental search company. These companies hold a large amount of data obtained from historic and current Ordnance Survey data to attempt to establish if there is a potential for the property to be affected by contamination.

These companies typically offer some form of warranty or certificate if there is little likelihood of contamination being present. Refusal of a certificate may occur if there is a possibility that the property might be situated on, adjacent to or within a site which has been subject to a potentially contaminative former land use. If your

property is awarded a certificate, it does not follow that the property in question will not be affected by contamination. Similarly a refusal to issue a certificate does not mean that a property will be determined as contaminated land. The decision to issue a warranty or certificate is ultimately down to the judgement of the company undertaking the search. The decision is based upon known facts and does not consider any physical site data obtained from investigation of the site itself. As a result they often only indicate whether more detailed investigation would be appropriate.

What you can do if 'contamination' is highlighted as a possible problem

If the potential 'contamination issue' is on a site of new housing, you could contact the developer, the NHBC (National House Building Council) or the local planning department for any information on the issue addressed at the time of development. The planning files are usually available to view free of charge at the local council offices although an appointment may be necessary.

Local authority officers responsible for contaminated land often hold details collated as part of their work on some sites, although not all. This information might include details of historic land uses, closed landfill sites, ground investigations (e.g. soil testing) that have previously been carried out on, or near to a particular property. A written or verbal response can be provided to requests for information about contamination issues at a property and factual site-specific data can be made available. Where a charge is applicable the amount will vary according to the extent of information requested and the time required to undertake the search. Contact the officer responsible for contaminated land at the local authority concerned for more information.