



Portsmouth
CITY COUNCIL

Contaminated Land in the Planning Process

Introduction

The following information is to help applicants consider whether their planning application must be accompanied by a report on ground contamination. Where a contamination assessment is required, the application cannot be accepted without the assessment. There are circumstances where potential contamination on a neighbouring site may result in an assessment being required with the application.

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 site. It is the Local Authority's duty to ensure that owners and developers carry out the investigations and proposals for dealing with any contamination, although the liability is retained by the developer for the safe development.

[The National Planning Policy Framework 2021](#), addresses the subject of contaminated land, in paragraphs 183 and 184.

183. Planning policies and decisions should ensure that:

a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);

b) 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; and

c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.

184. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

Planning applications fall into a number of different categories, and it is not always obvious when a contamination assessment may be required. The purpose of this guidance note is to clarify when Portsmouth City Council expects a contamination assessment with an application.

The Application

Section 6 of the Application form asks 5 questions of an applicant.

6. Existing Use	
Please describe the current use of the site	
Car Wash	
Is the site currently vacant?	<input type="radio"/> Yes <input checked="" type="radio"/> No
Does the proposal involve any of the following? If Yes, you will need to submit an appropriate contamination assessment with your application.	
Land which is known to be contaminated	<input checked="" type="radio"/> Yes <input type="radio"/> No
Land where contamination is suspected for all or part of the site	<input checked="" type="radio"/> Yes <input type="radio"/> No
A proposed use that would be particularly vulnerable to the presence of contamination	<input checked="" type="radio"/> Yes <input type="radio"/> No

To help you answer these five questions correctly, please read the explanations below:

Please describe the current use of the site

List all uses of the site up to current usage. This is to help identify if any uses of the land are likely to be contaminative

Is the site currently vacant?

This question is to highlight that active management of the site may have ceased.

Does the proposal involve any of the following (if Yes, you will need to submit a contamination assessment with your application)

Land which is known to be contaminated?

Sites for which the answer to this question should be YES, are any sites that have been tested and contaminants found. On remediated sites, the answer is also YES.

Land where contamination is suspected for all or part of the site?

Sites for which the answer to this question should be YES are sites that have had ever had industrial or contaminative uses such as a petrol station, garages, former MOD land, airport, reclaimed land (canal), prefab houses (due to asbestos after demolition), and others listed in Appendix 2. These sites will require further investigation to establish whether there is significant contamination requiring remediation.

A proposed use that would be particularly vulnerable to the presence of contamination?

Sites for which the answer to this question should be yes are sites that fall within the following categories:

- Residential developments
- Schools
- Play areas and parks, not including those entirely hard covered unless substantially enclosed
- Nurseries
- Hospitals
- Allotments

If the answer to any of the above questions is yes, the form prompts the applicant to submit a contamination assessment with their application. This is a 'Local List' requirement for Portsmouth - if Section 6 is not completed or where it has been completed and a yes has prompted contamination assessment, but one has not been submitted in support of the application, the application will not be made valid until such time as one has been received. There are circumstances where Portsmouth City Council may require assessment of off-site contamination, particularly if the off-site source is nearby, or if there is a potential landfill site within 250m. This is discussed in more detail later in this guidance note.

Please note that Permitted Development rights require prior approval where there is a wholly new building to be constructed, a change of use from commercial to residential end-use, or any new school use of land.

Contamination Assessments

In order to help understand what constitutes an appropriate contamination assessment, we have split the developments into 4 general categories (see Table 1). Please be aware that the list of developments is a guide and not exhaustive. If you have an application that does not fall into one of these categories and you are unsure please contact us.

Once the general category of the scheme has been found in Table 1, then Table 2 (next page) shows a traffic light system for deciding what information should be submitted with the application. The information that Portsmouth City Council considers to be an appropriate contamination assessment for each category is listed beneath the table.

Table 1: Four Development Categories

Change of use (residential) and householder	Change of use (commercial)	Sensitive development	Commercial development
<p>Domestic change of use</p> <ul style="list-style-type: none"> • Dwelling to flats/HMO • Guest house to dwelling/flats/HMO • Care home to dwelling/flats/HMO <p>First floor change of use</p> <ul style="list-style-type: none"> • Commercial to residential 1st floor (without soft landscaped garden areas) <p>Householder developments</p> <ul style="list-style-type: none"> • Extensions • Granny annex • Garages/summer houses non habitable • Porches • Conservatories 	<ul style="list-style-type: none"> • Commercial i.e. shops/offices to residential (not including industrial use) • Pub to dwelling/flats/HMO • Church/community building to residential • Commercial to residential 1st floor (with soft landscaped garden areas) 	<ul style="list-style-type: none"> • All applications for new residential dwellings • Allotments and community gardens • Schools and Nurseries • Play areas and parks (not including those entirely hard covered unless substantially enclosed) • Community uses. e.g. Youth Hut, social clubs • Hospice / Hospitals 	<ul style="list-style-type: none"> • All development for commercial end use

Table 2: Deciding what information is required with the application

The colour coding within Table 2 is explained in more detail below.	Change of use (residential) and householder	Change of use (commercial)	Sensitive development	Commercial development
No suspected or known contamination	Green	Amber	Red	Green
Contamination suspected	Green	Red	Red	Red
Contamination known	Red *	Red *	Red *	Red *

The colour coding is explained in more detail below.

Green

Applications falling within the green category do not require a contamination assessment with the application. The Contaminated Land Team may recommend planning conditions requiring further assessment where information suggests a potential risk to human health or other vulnerable receptors. A *desk study* will be required after planning approval is granted.

Amber

Applications falling within the amber category should be accompanied by, as a minimum, an environmental search. If the environmental search identifies an on-site source of contamination a more formal Phase 1 desk study report will be needed with the application.

If the environmental search identifies sources of contamination in the vicinity of the site, the Contaminated Land Team may consider it necessary for further assessment to be carried out. In these cases, land quality conditions may be applied to the application, except in cases where they consider the risks too great to be dealt with by condition. Decisions regarding these sites will need to be made on a site-specific basis according to the risk. Pre-application advice can be sought on these applications where necessary through the Planning Service's pre-application service, details of which are available on our website:

<https://www.portsmouth.gov.uk/ext/development-and-planning/planning/pre-application-planning-advice>

The Phase 1 desk study report submitted with these applications must provide confidence that a remedial solution will be available. If the Phase 1 desk study report cannot provide sufficient confidence, then the application must be accompanied by a Phase 2 site investigation report. The Contaminated Land Team suggest the environmental consultant contact the council before proceeding to the site investigation to ensure that the desk study records are comprehensive and the conceptual model sufficient to base the investigation upon.

Wherever possible we will follow the principles in this document, however, it is impossible to cover every eventuality and there will be site specific circumstances that mean additional information will be required.

Red

Applications falling within the red category must be accompanied by, as a minimum, a Phase 1 desk study report. For further information on the minimum requirements

for desk studies please visit our website and obtain Portsmouth City Council's contaminated land guidance for developers

Red *

These applications are within areas of land that are known to be contaminated. This is land that has been investigated and contamination has been found, as such there is a serious potential for harm to health and/or the environment on these sites.

Desk Study

A desk study (Stage 1) identifies the potential risks to receptors that may affect a development, taking account of surrounding land and historic land use. It includes a site walkover and may include limited soil sampling. The Conceptual Model is based upon a source ⇒ pathway ⇒ receptor pollutant linkage to establish whether any significant pollutant linkages may exist or form, and to assess whether there are any risks to human health or the environment.

The minimum requirements to be included in a **signed and dated** desk study are found within Portsmouth City Council's contaminated land guidance for developers.

Where an appropriate contamination assessment is required, one must be submitted with the application for it to be accepted by Portsmouth City Council.

Appendix 1 - FAQs

How do I know if contamination is suspected on a site?

This information can be gathered from environmental searches, which can be purchased cheaply and easily on the internet. The Contaminated Land Team can provide environmental searches for a fee which will include a summary of all information held by the team on their geographical information system. Alternatively, you can telephone the team on 023 9284 1399 for a quick overview of previous uses on/adjacent to the site.

How do I know if a site is known to be contaminated?

This information may come from a site investigation which has been carried out by the applicant or by another party. Any information about previous investigations held by the Contaminated Land Team can be summarised as part of an environmental search. Sites which are being investigated by Portsmouth City Council in line with their statutory duties to investigate contaminated land must also be considered to be contaminated for these purposes.

For amber sites what is an Environmental Search and where can I get it?

Environmental searches can be purchased from a number of companies on the internet. They should include as a minimum: details of the site history from historic maps and other sources, the environmental setting of the site, regulator searches i.e. the Environment Agency and Local Authority, processes subject to an environmental permit and radioactive substances searches.

What is a sensitive development?

Sensitive developments are those that people are likely to spend significant amounts of time in or are likely to be exposed to contamination. They tend to be developments where children are likely to be spending significant amounts of time. They include residential uses, schools, allotments, parks, hospitals and nurseries. If the proposed use is likely to be frequented by children, you are advised to check whether it would be considered to be a sensitive or vulnerable development.

If there is an established residential use on the site, and there is nothing proposed to disturb the ground or building fabric, why would a contaminated land risk assessment be required?

The only circumstance in which you would need a contaminated land assessment for these sites now are if we have reason to believe there will be a problem with contamination at the site. We need to ensure that by changing the use of the site additional risks are not created and as such an assessment of those risks will be required.

Under what circumstances might a contaminated land risk assessment be required for a domestic extension?

Again, this will only be necessary when we have reason to believe there will be a high likelihood of contamination being a problem, for example, if the site is on or within close proximity to a landfill it is necessary to ensure that the appropriate gas protection measures are installed in the extension. It is possible in some situations to provide details of the proposed measures and avoid carrying out the assessment; you are advised to discuss such sites with us.

Appendix 2 - Potentially Contaminative Land-Uses

This list is taken from the Department of Environment Industry Profiles that were produced c. 1995 to help Local Authorities by illustrating the type of sites that have historically used materials that could pollute the soil.

- Airports
- Animal and animal products processing works
- Asbestos manufacturing works
- Ceramics cement and asphalt manufacturing works
- Chemical Works - coatings paints and printing inks manufacturing works
- Chemical Works - cosmetics and toiletries manufacturing works
- Chemical Works - disinfectants manufacturing works
- Chemical Works - explosives propellants and pyrotechnics manufacturing works
- Chemical Works - fertiliser manufacturing works
- Chemical Works - fine chemicals manufacturing works
- DOE Industry Profiles: chemical works - inorganic chemicals manufacturing works
- Chemical Works - linoleum vinyl and bitumen-based floor covering manufacturing works
- Chemical Works - mastics sealants adhesives and roofing felt manufacturing works
- Chemical Works - organic chemicals manufacturing works
- Chemical Works - pesticide manufacturing works
- Chemical Works - pharmaceutical manufacturing works
- Chemical Works - rubber processing works (including works manufacturing tyres or other rubber products)
- Chemical Works - soap and detergent manufacturing works
- Dockyards and dockland
- Engineering Works - aircraft manufacturing works
- Engineering Works - electrical and electronic equipment manufacturing works (including works manufacturing equipment containing PCBs)
- Engineering Works - mechanical engineering and ordnance works
- Engineering Works - railway engineering works
- Engineering Works - ship building repair and ship breaking including naval shipyards
- Engineering Works - vehicle manufacturing works
- Gas works coke works and other coal carbonisation plants
- Metal manufacturing refining and finishing works - electroplating and other metal finishing works
- Metal manufacturing refining and finishing works - iron and steel works
- Metal manufacturing refining and finishing works - lead works
- Metal manufacturing refining and finishing works - non-ferrous metal works (excluding lead works)
- Oil refineries and bulk storage of crude oil and petroleum products

- Power stations excluding nuclear power stations
- Profile of miscellaneous industries incorporating: Charcoal works Dry-cleaners Fibreglass resins manufacturing works Glass manufacturing works photographic processing industry printing and bookbinding works
- Pulp and paper manufacturing works
- Railway land
- Road vehicle fuelling service and repair - garages and filling stations
- Road vehicle fuelling service and repair - transport and haulage centres
- Sewage works and sewage farms
- Textile works and dye works
- Tier products manufacturing works
- Tier treatment works
- Waste recycling treatment and disposal sites - drum and tank cleaning and recycling plants
- Waste recycling treatment and disposal sites - hazardous waste treatment plants
- Waste recycling treatment and disposal sites - landfills and other waste treatment or Waste disposal sites
- Waste recycling treatment and disposal sites - metal recycling sites
- Waste recycling treatment and disposal sites - solvent recovery works

You can get this
Portsmouth City
Council information
in large print, Braille,
audio or in another
language by calling

023 9283 4583



Corporate member of
Plain English Campaign **264**
Committed to clearer communication.
