

THE EXECUTIVE

5 APRIL 2006

REPORT OF THE CORPORATE DIRECTOR OF CUSTOMER SERVICES

RESULTS OF THE THAMES VIEW ESTATE SOIL QUALITY INVESTIGATION	FOR INFORMATION
<p>Summary: The Council has a duty, placed on it by Part IIA of the Environmental Protection Act 1990, to investigate land that it considers may be contaminated. The soil sampling work undertaken at the Thames View Estate has been completed on schedule and in accordance with both statutory guidance issued under the Act and the Council's own Contaminated Land Strategy.</p> <p>Following a rigorous assessment, the Council and its consultants have been able to conclude that the whole estate should not be considered contaminated land under the terms of the Environmental Protection Act 1990. This ends the Council's concerns with respect to the general quality of the soil on the estate. However, individual sites will still need to be assessed when and if development proposals are brought forward.</p> <p>It has been essential to ensure the investigations were rigorously completed to stand up to external scrutiny and legal challenge. They have been completed in line with its statutory obligations to protect the Council against any future liability.</p> <p>Wards Affected: Thames</p>	
<p>Implications:</p> <p>Financial: A budget provision of £122,770 had been approved for the works. The actual costs incurred were £126,148. The extra costs incurred were for necessary additional soil analysis and were able to be met from existing budgets.</p> <p>Legal: The assessment has been able to conclude that the whole estate should not be considered contaminated land under the terms of the Environmental Protection Act 1990. This ends the Council's concerns with respect to the quality of the soil on the estate.</p> <p>Risk Management: None</p> <p>Social Inclusion and Diversity: None</p> <p>Crime and Disorder: None.</p>	
<p>Recommendation(s)</p> <p>The Executive is asked to note this report.</p>	
<p>Reason(s) To assist the Council in achieving its Community Priorities of "Making the Borough Cleaner, Greener and Safer" and "Raising Pride in the Borough".</p>	

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1. Introduction

- 1.1 The Council has a duty, placed on it by Part IIA of the Environmental Protection Act 1990, to investigate land that it considers may be contaminated. This investigation has to be carried out in accordance with statutory guidance issued under the Act and the Council's own Contaminated Land investigation strategy adopted in June 2000.
- 1.2 In early 2002 the Council was informed that there were concerns regarding the soil quality at the Thames View Estate. The work undertaken since then by the Council at Thames View has established that the estate is safe for its residents.
- 1.3 It has been essential to ensure the investigations were rigorously completed to stand up to external scrutiny and legal challenge. They have been completed in line with its statutory obligations to protect the Council against any future liability.
- 1.4 The investigations have consistently been supported by the Department of Environment, Food & Rural Affairs (Defra) revenue support grants. Defra's assessor, the Environment Agency (EA), is the Government's expert body in relation to site management and regulation. The EA have commended the Council on the pragmatic approach that has been taken in these investigations. By providing capital support, Defra's assessors have shown they believe investigations undertaken at Thames View were necessary, appropriate and in line with current legislation and guidance.
- 1.5 The inspection of land that may be contaminated has been included as a Best Value Performance Indicator (BVPI) for the first time this year (2005/6). The indicator measures the number of identified potentially contaminated sites against those that are either identified as not posing a risk or have been cleaned up. This project will contribute significantly towards the score for this indicator.

2. Background

- 2.1 The Thames View Housing Estate was constructed in the 1950s on land that had been previously used for allotments and grazing. Pulverised fuel ash from the adjacent coal fired power station was imported on to the site prior to its development. During the mid to late 1960s the estate was extended to cover an area previously used as railway sidings.
- 2.2 In December 2000, the Essex and Suffolk Water Company investigated a burst water main on the estate. Their investigations indicated that the water main, an asbestos cement pipe, had suffered from external sulphate attack.

3. Previous Investigations

- 3.1 Following this discovery Essex and Suffolk Water commissioned further studies into ground conditions adjacent to their mains. This work reported late in 2001 and information was given to the Council indicating concern with the land quality. These investigations showed that in addition to the expected ash material there was evidence of uncontrolled tipping, mainly of demolition waste, but also other materials.
- 3.2 Some of these materials contained substances which may be harmful to human health, for example “metals” such as arsenic, lead, nickel, asbestos fibres, and organic substances such as those found in diesel and other fuels or lubricants. Soil in the upper layers, with the potential for residents to be coming into contact with it showed similar results. With the results of these investigations suggesting the potential for a site wide problem, the Council then undertook two very limited investigations. These results confirmed the potential for a serious risk to human health to be present as a result of the soil quality. Based on these findings the Council had a duty of care to investigate the site under Part IIA of the Environmental Protection Act 1990.
- 3.3 An investigation of land at the Infants School on the estate was undertaken and the Council also commissioned a limited study into the quality of soil in gardens. This report was completed in April 2003 and indicated similar results to those carried out by the water company.
- 3.4 In September 2003, following a procurement exercise undertaken using European rules, the Council commissioned a comprehensive two stage site investigation and risk assessment report into the quality of soil at the Estate to assess the site with reference to the Part IIA regime. As a precautionary measure, based on the findings of the study so far, the Council issued Health & Safety ‘Do’s and Don’ts’ advice. The note advised residents not to eat home grown fruit or vegetables and to take basic hygiene precautions such as washing hands after coming into contact with soils on the Estate.
- 3.5 The consultants (Hyder Consulting Ltd) carried out a phased investigation across the estate, with preliminary sampling leading into a substantially more detailed investigation.
- 3.6 As the investigation progressed, Hyder collected soil samples from a number of locations around the estate and from 20 garden-sized plots. Hyder were able to conclude from this that none of the plots investigated were grossly contaminated. However, most contained a small range of contaminants at concentrations that required more detailed human health risk assessment; an assessment tailored specifically for Thames View residents.
- 3.7 With so much uncertainty surrounding this new legislation the Council also needed to be confident about the advice coming out of the investigation. To this end, the Council asked for a peer review of the work, and also sought legal opinion on possible outcomes and their implications. This advice was provided by legal and technical experts of national standing (respectively), both of whom provide advice to central government on these issues.

- 3.8 During the summer of 2004 valuers working for the Halifax Bank of Scotland Group incorrectly identified the Estate as contaminated land and chose not to lend on properties at the Estate. Other mortgage providers also stopped lending, and as a result a significant negative impact on the residential sales began to develop on the estate, creating severe difficulties for residents.
- 3.9 In December 2004, the consultants were able to conclude from their investigations that flats and houses without private gardens were not at risk from soil contamination. Following this, in January 2005, the Council were able to confirm to residents that the major mortgage lenders had been updated with these findings after meeting with the Council's team, and were once again happy to provide mortgages. Residents were advised that further work was still necessary to assess the quality of the soil for houses with private gardens and determine if vegetables would be affected when grown in the soil.
- 3.10 At the time of completion of this phase, in December 2004, the assessment was reviewed by the Environment Agency as Defra's technical assessors who stated that the risk evaluation had been "a significant advance in the assessment of the potential significance of the contamination identified at the site".

4. Results

- 4.1 The additional work required to investigate the situation with private gardens included the collection of soil samples from 100 gardens across the estate and the test growing of crops in some of these. The soil sampling work took place in March and April this year. Soil testing and analysis was completed on schedule and following rigorous assessment, the Council and its consultants have been able to conclude that the whole estate should not be considered contaminated land under the terms of the Environmental Protection Act 1990.
- 4.2 This ends the Council's concerns with respect to the quality of the soil on the estate. The Council considers that growing and eating vegetables in private gardens should not pose a risk to residents' health.

5. Implications

- 5.1 Given the substantial effort and money that has needed to be spent on investigating this issue over the past 3 years, it is appropriate to review the value of the work undertaken and re-examine the initial premise for undertaking these investigation and the benefits of seeing them through.
- 5.2 The initial premise was the concern that widespread and potentially serious health risks might be associated with the soil present across the estate. Investigations by third parties had raised these issues, and investigations by the Council confirmed the scale of potential hazard. Estimates for potential remediation costs for private gardens alone were in the order of £2-5 million. Understanding these implications, it was essential to ensure a rigorous investigation was completed and this has been achieved.

6. Conclusions

- 6.1 The Council is now able to demonstrate conclusively that the estate is safe and fit for purpose, and no further work is necessary, justifying the effort made to ensure an appropriate conclusion could be drawn. Local authorities elsewhere in the UK are faced with similarly challenging sites, although with differing technical capabilities and/or resources to deal effectively with such issues.
- 6.2 The work at Thames View has set a standard that other authorities will have to follow. The problems experienced by some of these LA's are sufficiently serious and with national connotations that debate of contaminated land issues has reached Parliament.

7. Consultees

- 7.1 Officers
Head of Housing and Health Financial Services: Colin Rigby
Corporate Legal Services: Omar Qassim

Background Papers Used in the Preparation of the Report:

- None