



# **What does Land Contamination mean to me?**

## **Advice to Homeowners and Prospective Homebuyers Affected by Potential Land Contamination**



## **The purpose of this guide**

This guide is intended for those purchasers or vendors of property within the Borough of Swindon that suspect that there may be land contamination affecting the property, or the ground beneath, in some way.

## **What is land contamination?**

Land can become contaminated by substances that are hazardous to health causing pollution of the environment and damage to buildings and structures. Land becomes contaminated by various means, but most commonly it is a legacy of 200 years of industrial activity in Britain. There has been a long history of industrial activity in the Borough of Swindon.

## **What makes land become contaminated?**

Sometimes land becomes contaminated because of former poor materials management or disposal practices. The loss of substances to the ground, whilst commonly being a historical problem, is also an ongoing one in some cases, although stricter regulation allows such sites to be more carefully controlled compared to previous decades.

## **What are the consequences of land contamination?**

At its worst, contaminated land may present a hazard to potential users of the land or to the environment.

Users may become exposed to contaminants such as by inhalation of dust or gases or contact with soil, also through food grown on the land. There may be indirect effects on users such as damage to buildings and pollution of water supplies.

Substances can be washed out of soil (leaching) to pollute groundwater, rivers or ponds. Some contaminants may be corrosive, and some can cause explosion or fire.

## **Our conveyance has been stalled or delayed because of land contamination – what does this mean?**

As understanding of the importance of land contamination has increased, so it has become more common for solicitors to make enquiries about land contamination.

Legislation introduced in 2000 (Part IIA of the Environmental Protection Act 1990) places certain duties on Local Councils and land owners regarding contaminated land, and this has made it much more likely that possible contamination is considered when property is bought or sold.

Although not a statutory requirement, environmental searches are frequently carried out by conveyancing solicitors to identify contamination that might affect the property being offered for sale. These environmental searches are most often provided by commercial organisations and are supplied at various levels of detail, ranging from provision of purely factual information through to detailed interpretation of findings. Generally the searches include a study of old historical mapping, land use records and other information that might indicate matters of potential concern.

As a result of these searches the provider may issue a certificate that the site appears to be at minimal risk of being affected by contamination. Alternatively if contamination is suspected a certificate may be withheld, but a warning issued that contamination may be present. This is not a guarantee that contamination is actually present, nor is the issue of a certificate a guarantee that no contamination is at the property.

## **Should I be concerned if I suspect that our house is on potentially contaminated ground?**

In terms of a property conveyance, some buyers have noted that their lender may be reluctant to proceed with the mortgage advance. Some buyers may be put off by the possible presence of land contamination. But land contamination *per se* is not necessarily a real problem.

The risks living on most land that has been contaminated by past use are usually low and more often than not, any effects are to the value of the property due to perceived risk rather than actual effects to the health of occupiers or to the environment.

You should always seek the advice of your solicitor in the first instance.

## **Why was it necessary to build our home on contaminated land?**

In urban areas in most large towns and cities there are sites that have been left as unsightly waste land or derelict buildings. These have an environmental and social detrimental effect on the surrounding area. Such land is known as “Brownfield” land, defined most simply as “land that has previously been developed”.

Much of this Brownfield land is contaminated and in past years has been considered unattractive to clean up and bring back into beneficial use, especially where there have been alternative “Greenfield” sites available. However, modern technologies and approaches have enabled this kind of land to be broad back into beneficial uses. Brownfield redevelopment can benefit both private and public investors and communities. For the investor, there is potential for profit on unused or under-utilised properties and access to urban markets. For the local community there is potential for housing, employment opportunities, creation of new spaces for leisure and recreation, improvements in the community’s quality of life, and a curtailment of urban sprawl.

The Government now wants to bring as much Brownfield land as possible back into use and is encouraging the regeneration of previously developed land to limit unnecessary development of Greenfield sites and preserve the countryside. Strict targets have been set to encourage building of the majority of new houses on brownfield land.

## **So who can I turn to for help?**

In the first instance you should contact the Swindon Borough Council Contaminated Land Officer at the address below. It is possible that this authority may have records of the former uses of your property, how any contamination was tested for and details of any remedial actions undertaken to make the land safe.

It might also be beneficial to contact the Council’s Planning Department and Building Control Department. Both of these Departments may also have records detailing how contamination had been managed to help you understand the condition of the land. In addition you can contact the Environment Agency, a body that addresses pollution incidents and has powers to enforce cleanup of environmental damage.

## **How do I decide what to do?**

The Contaminated Land Officer (and other Council officers) can provide advice but ultimately it is your responsibility to satisfy yourself that your concerns have been addressed.

You may wish to carry out testing yourself, as physical testing of the ground in its current state is the only way to gain a detailed picture of the actual ground conditions. However, you should note that the sampling and testing of soil and groundwater and interpretation of the results is expensive and best left to professional advisors. The Contaminated Land Officer can provide advice on the procuring of these professional services, and may give advise on the interpretation of the results of sampling and testing, however, ultimately the decision on subsequent action will usually rest with the property owner.

Only in a relatively small number of cases will the land be classified as "Contaminated Land" under Part 11a of the Environmental Protection Act 1990.

## **Further Information**

### **1. Contact Swindon Borough Council**

For further information on local land contamination matters, you should contact the Contaminated Land Officer at Swindon Borough Council in the first instance:

Contaminated Land Officer  
Swindon Borough Council  
Premier House  
Station Road  
Swindon SN1 1TZ  
01793 466044

Each local authority is under an obligation to determine the presence of potentially contaminated sites within its area and regulate remediation of that land where appropriate. The authority must also determine the need for sufficient investigation and remediation for sites that are to be redeveloped via the planning process.

### **2. Contact the Environment Agency**

The Environment Agency addresses pollution incidents in England and Wales and has powers to enforce cleanup of environmental damage. Under Part IIA of the Environmental Protection Act 1990, the local authority may refer sites considered 'Special Sites' to the Environment Agency for assessment. The Agency is usually consulted by the local authority under the planning process. The Agency can issue "Works Notices" (under the Water Resources Act 1991) where pollution of "Controlled Waters" (such as groundwater, coastal water and water in surface water courses, rivers, lakes etc.) is occurring.

Environment Agency (Head Office)  
Rio House  
Waterside Drive  
Aztec West  
Almondsbury  
Bristol BS32 4UD Tel: 01454 624400

[enquiries@environment-agency.gov.uk](mailto:enquiries@environment-agency.gov.uk)  
<http://www.environment-agency.gov.uk>