

PAPER NO. 4

REPORT TO THE EXECUTIVE MEETING OF 14th February 2017

Meeting: Executive

Date: 14 February 2017

Subject: Determination of the potential contaminated land site

Report of: Ian Bartlett – Environmental Health Team Leader

Portfolio Holder: Cllr N Bannister

Status: Approval

Relevant Ward(s): Thurnby and Houghton

1 Purpose of the Report

1.1 The purpose of this report is to approve the outcome of the intrusive contaminated land investigation of the land known as The Cuttings Thurnby in that it does not meet the definition of “Contaminated Land” as set out in Section 78A of the Environmental Protection Act 1990 as amended and to delegate authority to the Corporate Director, in consultation with the Portfolio Holder, the authority to make a determination on any future land which is not deemed to meet the definition of contaminated land following an intrusive investigation.

2 Recommendations:

2.1 **The Executive:**

- (i) **approves the outcome of the investigation and confirm that the land at The Cuttings Thurnby does not meet the definition of contaminated land as defined by section 78A of the Environmental Protection Act 1990 as amended.**
- (ii) **delegates to the Corporate Director (NP), in consultation with the relevant Portfolio Holder, the authority to make a determination on future land that does not meet the definition of contaminated land following a detailed investigation.**

3 Summary of Reasons for the Recommendations

3.1 A recent geo-environmental survey and land contamination risk assessment has concluded that the site poses a low risk to receptors

- 3.2 Whilst the intrusive investigation found elevated levels of carbon dioxide, the risk posed to people living on the site is considered to be low because:
- no gas flow was detected;
 - the buildings on site have ventilated sub-floor voids which provide some protection; and
 - no elevated levels of carbon dioxide were detected outside of the area of the landfill.
- 3.4 Following the intrusive investigation, the report from the GeoEnvironmental Consultants – GRM Development Solutions Ltd and Council’s Contaminated Land Officer concluded that the site poses a low risk to receptors and does not pose a “significant possibility of significant harm” to receptors either on or off-site and therefore does not meet the definition of “Contaminated Land”

4 Key Facts

- 4.1 The Cuttings is a piece of land in Thurnby which historically was used as a landfill site in the 1970’s onwards. The site has had several planning applications for the redevelopment of the area over the last 30 years. At the time of these historic applications it was believed that the risk from ground gasses was low.
- 4.2 Current good practice requires a modern ground investigation, in line with current techniques to be undertaken on such sites when planning applications are submitted to the local authority. An investigation was carried out as part of a planning application which identified some potential risks on site. Whilst mitigation measures have been installed on the most recent developments, there was insufficient information to confirm that such measures were installed or required in the earlier properties and it was felt further work was required to determine any future actions.
- 4.3 In February 2016 a Phase 1 desk top contaminated land assessment was carried out which concluded that further investigation was required to determine whether the site does or does not meet the definition of “contaminated land” as defined by 78A of the Environmental Protection Act 1990 as amended.
- 4.4 As a result of the desk top study, detail, ground investigations were undertaken on the site between May and October 2016. The final report from the consultants undertaking the investigation concluded that whilst ground gas was found on the site, the potential risk to residents was low. The consultants therefore recommended that the site is not designated as contaminated land as there is no evidence to suggest that there is a significant possibility of significant harm both on site and off site.
- 4.5 In line with current statutory guidance, the Council is required to issue a written statement regarding it’s determination to minimise the risk of unwarranted blight against a site.

5 Legal Issues

5.1 There is a legal duty on Local Authorities to assess and determine whether land is contaminated land under Part IIA of the Environmental Protection Act 1990.

5.2 Failure to make a decision within a reasonable time frame could result in residents making a claim against the Council if for example they are not able to sell their houses due to non-determination.

6 Resource Issues

6.1 During the 2017-18 budget setting process, the outcome of the ground investigation was not concluded and there was the potential that further intrusive work was required on the site and consequently a one off growth bid of £15,000 was submitted for consideration. The outcome of the investigation means that this additional resource will no longer be required.

7 Equality Analysis Implications/Outcomes

7.1 No issues

8. Risk Management Implications

8.1 Failure to comply with Government legislation on the assessment and determination of contaminated land under Part IIA of the Environmental Protection Act 1990 may have a direct health impact on the local community.

9 Consultation

9.1 Local residents, ward members and Portfolio Holder have been kept informed throughout the investigation.

10. Options

10.1 The Environmental Protection Act 1990 sets out the statutory duty for the Council to consider whether land falls within the definition of contaminated land. Once there is sufficient information available to enable the Council to make a determination on whether the site is not contaminated land the statutory guidance says that the Council should issue a written statement setting out the reasons for reaching the decision.

11 Background Papers

11.1 None

Previous report(s): None

Information Issued Under Sensitive Issue Procedure: N

Ward Members Notified: Y

Appendices:

A.

B.

C.

D.