

POLICY LP47: CONTAMINATED LAND AND UNSTABLE LAND

- 1. Where development proposals are submitted on or near a site that is known to be, or may be, contaminated an applicant should carry out a site assessment and submit a report of the findings in order to establish the nature and extent of the contamination.**
- 2. Development proposals will not be permitted unless practicable and effective measures are proposed to treat, contain or control any contaminants so as not to:**
 - a) expose the future occupiers of the development and neighbouring land uses, including in the case of housing the users of gardens, to unacceptable risk;**
 - b) cause the contamination of adjoining land or allow such contamination to continue; and**
 - c) cause pollution of the water environment including groundwater, Portsmouth Harbour and the Solent.**
- 3. Where development proposals are submitted on land which is either unstable or has the potential to become unstable, the Borough Council must be satisfied that any such instability can be reasonably overcome. In circumstances where unstable land may be present, the developer will be required to submit a stability report at the planning application stage.**

EXPLANATION OF POLICY LP47

Land Contamination (Points 1 and 2 of policy LP47)

- 12.125 Development can provide important opportunities to restore land which may be contaminated to productive use. Contamination can give rise to hazards which put at risk people working on the site and the occupiers and users of the proposed development.
- 12.126 Therefore every measure should be used through the development process to facilitate and enhance the remediation of land affected by contamination. As a minimum standard, land should be made useable for development in accordance with the provisions of national pollution control regimes including those identified in the National Planning Policy Framework (or equivalent). Where a site is affected by contamination issues, responsibility for securing safe development rests with the developer and/or landowner.
- 12.127 Where land contamination may be an issue, early pre application meetings with the Borough Council and the Environment Agency are advised. The standard of investigations, assessments, including risk assessments, remedial schemes, verification reporting should follow current UK good practices²⁵². As a minimum, a contamination assessment will be required on all sites within 250m of a landfill site and on all sites where previous uses may have resulted in land contamination and on all sites where contamination is

²⁵² See Environmental protection Act 1990:Part 2 - Contaminated Land Statutory Guidance.
See NPPG – Land affected by contamination <http://planningguidance.planningportal.gov.uk/blog/guidance/land-affected-by-contamination/land-affected-by-contamination-guidance/>

known. The minimum information required in these instances should be a desk study, initial conceptual model and risk assessment.

12.128 A developer will need to satisfy the Council that unacceptable risk from contamination will be successfully addressed through remediation measures and not cause undue environmental impact either during the construction phase or after the completion of the development has taken place. As a minimum land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990.

12.129 Other policies relating to specific development sites (LP4-LP9) as well as the policies relating to water resources and waste are also applicable in relation to the issue of contamination.

Unstable Land (Point 3 of policy LP47)

12.130 Making the best use of land is a key Government objective. In doing so it is necessary to ensure that the site is suitable for its new use. Development of land which is either unstable or is potentially unstable can be successfully developed provided that all the remedial, preventative or precautionary measures are identified and put in place at the earliest stages of the development process. As is the case with sites that are contaminated, where a site is affected by land instability responsibility for securing the safe development of such land rests with the developer and/or land owner.

12.131 Where land is known to be unstable or has the potential to become so, an applicant should carry out a site assessment and submit a report of the findings in order to establish the nature and extent of the instability and details of the mitigation measures proposed. Through the remediation process, it will be necessary for developers to ensure that proposed mitigation measures do not adversely impact on the natural environment.

POLICY LP48: HAZARDOUS SUBSTANCES

Where development is proposed in locations where hazardous substances may be a consideration the following applies.

- 1. Planning permission for development involving the use, movement or storage of hazardous substances will not be granted if there is an unacceptable risk to public health and safety, neighbouring land or the environment.**
- 2. Development within the vicinity of a site known to be used for the storage, use or transport of hazardous substances will not be granted planning permission if there would be an unacceptable risk to public health and safety.**

EXPLANATION OF POLICY LP48

Hazardous substances (Points 1 and 2 of policy LP48)

12.132 Hazardous substances include certain gases, liquids and explosive chemicals. In addition to requiring planning permission, a Hazardous Substances Consent may also be required. The Health and Safety Executive has responsibilities on advising local authorities on the potential hazards of any proposed development. The Borough Council will take into account any