

Determination of contaminated sites in Camden

Determination is the formal process in the Statutory Guidance for Part IIA of the Environmental Protection Act by which we will decide whether or not a particular area of land (or site) is contaminated land. We have sole responsibility for the determination as to whether a site meets the definition of contaminated land.

“Contaminated land is any land which appears to the local authority... to be in a such a condition, by reasons of substances in, on or under the land, that

- Significant harm is being caused or there is the significant possibility of harm being caused; or
- Pollution of controlled waters is being caused.”

Specific requirements for determination

We must have regard to the Secretary of State’s Statutory Guidance when determining whether an area of land is contaminated land. The Statutory Guidance for contaminated land is located in the following document: “Department of the Environment, Transport and the Regions (DETR), Circular 02/2000, Environmental Protection Act 1990: Contaminated Land, 20th March 2000.”

At the start of this stage we will have collected sufficient information from the detailed inspection of a property to determine that the land is contaminated land.

Sufficient information is defined in the statutory guidance as

“To be sufficient, information should include, in particular, evidence of the actual presence of a pollutant.”

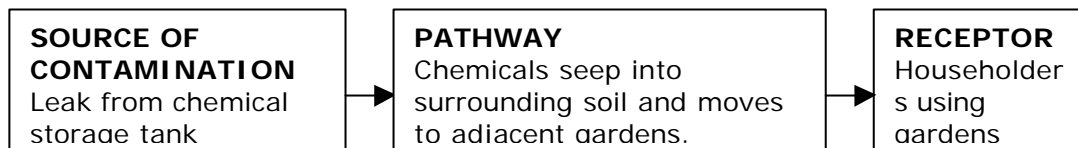
At the end of this stage we will have determined whether or not the land is contaminated land and will have prepared a written record of determination.

The decision on whether an area of land should be determined as contaminated is based upon principles of risk assessment. The risk assessment of an area of land will have already been carried out in the detailed inspection stage of an investigation.

Determination Process – Key Points

- To make the determination, we have to define the pollutant linkage present on site. If there is no pollutant linkage then a site cannot be determined as contaminated. If one of the three components is not present then there is no pollutant linkage, and the land cannot be determined as contaminated.

Example of a pollutant linkage



- We have to define the area of land to which the determination applies i.e. the area of contamination. We have to take into account the distribution of pollutants, the nature of remediation that may be required, and the likely identity of those that may be responsible for remediation (if it is known at this stage).
- If the contamination is affecting a protected habitat (such as a site of specialist scientific interest) or pollution of controlled waters (rivers, canals or groundwater), we will consult English Nature and the Environment Agency and take their views into account.

- The Statutory Guidance requires that we carry out an ‘appropriate scientific and technical assessment’ of all relevant and available evidence.
- We are also required to prepare a written statement of the determination that results in the land being classified as contaminated land.
- Even if we decide that an area of land is not contaminated land, the information gathered in this process is relevant and can be used for land use planning and development control purposes. Also, we may wish to revisit the land as the circumstances change at some point in the future.

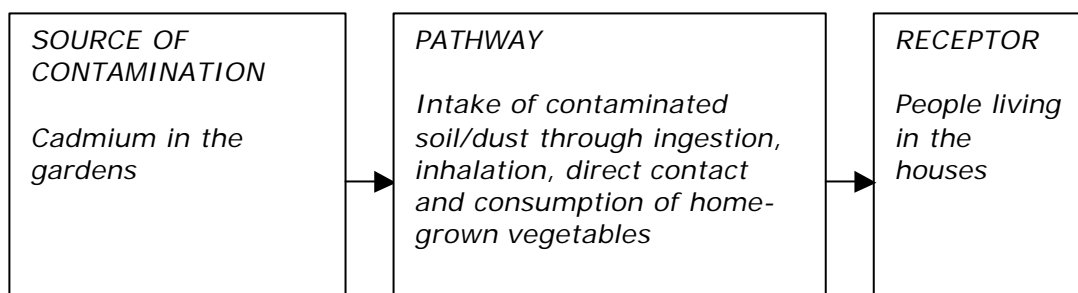
We decide whether land is contaminated based on an assessment of ‘significant possibility of harm being caused’

- Evidence will be collected using reliable and scientifically based techniques and methods.
- We will take into account all relevant and available evidence and carry out an appropriate assessment of that evidence.
- We will collect information to support identification of all 3 components of the pollutant linkage.
- The assessment will take into account the current use of the land.
- The assessment will take into account the nature and degree of harm, the susceptibility of the receptors to which the harm may be caused and the timescale within which the harm might occur.

Example of circumstances that might constitute ‘significant possibility of harm being caused’

In the late 1970s houses with gardens were built on derelict land. It is known that the land was used for the disposal of ash and other wastes from a nearby incinerator. There is no record of any remediation works taking place during the construction of the houses. A detailed investigation shows that soils in some of the gardens have above average concentrations of cadmium above the UK Soil Guideline Value (SGV) for Cadmium in residential gardens.

The Significant Pollutant Linkages are:



The condition of the land meets the condition of significant possibility of significant harm (human health effect) set out in Table B of the Statutory Guidance. The intake of cadmium from soil by residents represents an unacceptable intake taking into account all relevant exposure sources and pathways (including background), and the duration of exposure is set to continue, given the residential use of land.

For further information on the determination process refer to

Department of the Environment, Transport and the Regions (DETR), Circular 02/2000, Environmental Protection Act 1990: Contaminated Land, 20th March 2000.

Chartered Institute of Environmental Health (CIEH): Local Authority Guide to the Application of Part IIA, Section C. July 2001