



Supplementary Planning Guidance: advice note  
**Development of contaminated land**

August 2017

## About supplementary planning guidance

The Minister for the Environment may publish guidelines and policies (supplementary planning guidance) in respect of; development generally; any class of development; the development of any area of land; or the development of a specified site<sup>1</sup>.

Supplementary planning guidance may cover a range of issues, both thematic and site specific, and provides further detail about policies and proposals in the Island Plan and other issues relevant to the planning process. It can also be used to provide information about how the planning system operates.

Where relevant, supplementary planning guidance will be taken into account, as a material consideration, in making decisions.

Supplementary planning guidance is issued in a number of different forms including:

- **Advice notes**, which offer more detailed information and guidance about the ways in which Island Plan policies are likely to be operated, interpreted and applied in decision making;
- **Policy notes**, which can be issued by the Minister, following consultation with key stakeholders, in-between reviews of the Island Plan, to supplement and complement the existing planning policy framework;
- **Masterplans, development frameworks and planning briefs** provide more detailed information and guidance about the development of specific sites and areas of the Island; and
- **Practice notes**, which aim to provide information about how the planning system's protocols and procedures operate.

The current supplementary planning guidance is listed and can be viewed on the States of Jersey website at [www.gov.je/planningguidance](http://www.gov.je/planningguidance).

Hard copies of all supplementary planning guidance can be obtained from Planning and Building Services, Department of the Environment, South Hill, St Helier, JE2 4US, telephone: 01534 445 508 email: [planning@gov.je](mailto:planning@gov.je)

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<sup>1</sup> Under Article 6 of the Planning and Building (Jersey) Law, 2006

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## **Introduction**

Certain land uses can result in site contamination posing an unacceptable risk to the health of people and to the wider environment. Such contamination can remain in the ground for many years after the use has ceased unless successfully removed or treated in an appropriate manner.

In all cases where development is proposed, it is the developer's responsibility to ensure that the land is safe and suitable for the development or can be made so by taking remedial action. This responsibility extends to ensuring that site-workers and any future occupants of the site are not exposed to potentially harmful contaminants.

This Advice Note outlines the steps that will need to be taken by an applicant – and the information that will be required by the Department – when applying for planning permission to develop land that may be contaminated.

The aim is to encourage a consistent and transparent approach to the planning process whenever the development of (potentially) contaminated land is proposed. It also aims to foster a productive working relationship between the applicant and the Department together with any professional consultee who may be asked by the Department to join the process. This will enable an efficient and thorough assessment of the planning application and should ensure that any relevant planning conditions can be adequately complied with and discharged in a timely manner.

## **Policy Context**

There is no specific contaminated land legislation in Jersey. However, health, environmental and planning legislation and policy is used to control the impact of contaminated land on the Island. To this end, the Department expects that all such land will be dealt with in accordance with best environmental practice based primarily on current EU/UK guidance.

Policy GD1 'General Development Considerations' of the adopted 2011 Jersey Island Plan (revised 2014) provides the criteria against which all planning applications are likely to be considered. It sets the Department's commitment to ensuring that new developments do not result in an adverse impact on the Island's natural environment nor upon the health of people.

Policy GD6 builds on this fundamental concept, focussing specifically on the issue of contaminated land and sets out the policy framework against which development proposals on such land will be assessed.

## Policy GD6

### Contaminated Land

Proposals for development on contaminated land will be permitted where:

1. the developer carries out and submits a full and satisfactory investigation of the condition of the site to include, and fully identify, the nature and extent of contamination present and, where it can be ascertained, the period over which contamination occurred; and
2. the developer proposes a satisfactory programme of works to treat and/or remove the contamination present in a manner that is acceptable to the relevant regulatory bodies.

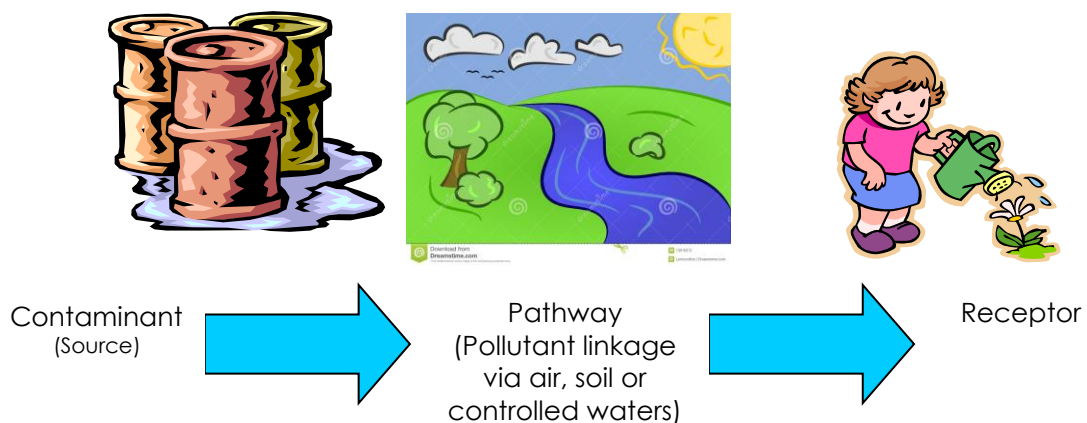
This Advice Note supersedes the former Planning Advice Note No. 2 dated October 2005 and is intended to complement the planning policy framework established by the Island Plan. The Advice Note will be a material consideration in the determination of applications.

### What is Contaminated Land?

Contaminated land is, generally, regarded as being land where substances could cause;

- harm to people or to the Island's flora and fauna (*a receptor*);
- pollution of the ground, air, surface waters or groundwater (*a receptor or possible 'pathway' to the receptor*).

However, for a site to be classed as contaminated land, a 'contaminant linkage' must be established. This is where a contaminant is able to be transmitted to a receptor via a *pathway* such as a water-course, air pollution or through polluted soil. The figure below illustrates the principle of a contaminant linkage:



If the three components of the contaminant linkage are present, then an adequate

risk assessment **must** be carried out by the applicant to determine the likelihood of harm or pollution being caused and the likely nature and extent of that harm or pollution, should it occur. This 'Phase 1 Risk Assessment' forms the first part of a three phase approach to contaminated land investigation and management and it should form part of the planning application submission.

**How do I know if a site is, or may be, contaminated?**

Although Jersey has not had a history of heavy industrial uses, there are sites where former or current uses could present contamination issues. Examples of such sites include commercial glasshouse sites, whether cleared or still standing, areas of 'made' ground (historic infill), vehicle workshops and land connected with the Island's former railway network.

The table below highlights other uses which may have resulted in land being contaminated. If your site includes anything listed here then it should be assumed that the land is, potentially, contaminated. However, as the list is not exhaustive, the Department may also contact you upon receipt of an application to advise that a particular site may be potentially contaminated.

If you are in any doubt as to the status of a site, then the Department will assist where it can although the responsibility and cost-burden for carrying out risk assessments lies entirely with the applicant.

| Typical uses which may have caused land to be contaminated* |   |
|---|---|
| Animal product works, eg abattoirs/<br>tanneries            | Printworks                              |
| Burial grounds  | Sewage works                            |
| Chemical works  | Textile / dye works                     |
| Commercial garages / petrol stations/<br>workshops etc.     | Timber yards                            |
| Commercial glasshouses                                      | Waste storage, treatment<br>or disposal |
| Dry cleaners  | Land reclamation                        |
| Engineering or Steelworks                                   |   |
| Former Railway land   |   |
| Gas works / coal yards                                      |   |

*\*not an exhaustive list*

**Planning Applications for development on (potentially) contaminated sites**

Where a site is potentially contaminated, then the applicant will be required to prepare a Phase 1 Risk Assessment and to submit this as part of the planning application. Failure to do so may result in a delay in the determination of the

application. Risk assessments are explained in the next section and Appendix 1 expands on the detail expected in each phase of assessment.

If, after full consideration of the planning application, the Department considers that the proposed development is acceptable in all other respects then it is likely that planning permission will be granted. However, conditions will be attached to the permission to ensure that a thorough and sequential approach to the investigation, management and remediation of contamination is carried out according to best practice. Examples of typical conditions can be found at Appendix 3.

It should also be noted that before the Department can discharge such conditions, a satisfactory Completion Certificate will need to be submitted by the applicant prior to the approved development being brought into use. This should be submitted when the applicant has completed all necessary phases of the investigation / remediation and can show that contamination was not present, or that it no longer poses an unacceptable risk to any receptors. The Completion Certificate, a template for which is provided at Appendix 2 can accompany the relevant Phase 1, 2 or 3 risk assessments or following a successful watching brief.

As with all planning applications, it is very important that any condition attached to a planning permission is fully understood and complied with. Failure to comply with a condition is, in itself, a breach of Law and could result in legal action being instigated against the site owner and / or contractor. For this reason, if there is any doubt as to the requirements of a condition, the advice of the Department should be sought before works commence on site.

As the conditions will require on-going monitoring of the site and, perhaps, treatment, it will always be beneficial to establish a close liaison with the Planning Officer.

Applicants are also strongly advised to engage someone with the appropriate professional skills at an early stage in the planning process. This is important both in terms of identifying the nature, extent and possible treatment of any contamination and of ensuring that the health & safety aspects of investigating and treating contamination are properly handled. The Department cannot recommend a consultant to you, but the Environmental Data Services Consultancy Directory is a good place to start when looking for one ([www.endsdirectory.com](http://www.endsdirectory.com)). Engaging a consultant without the relevant expertise may prove to be more expensive in the long-run.

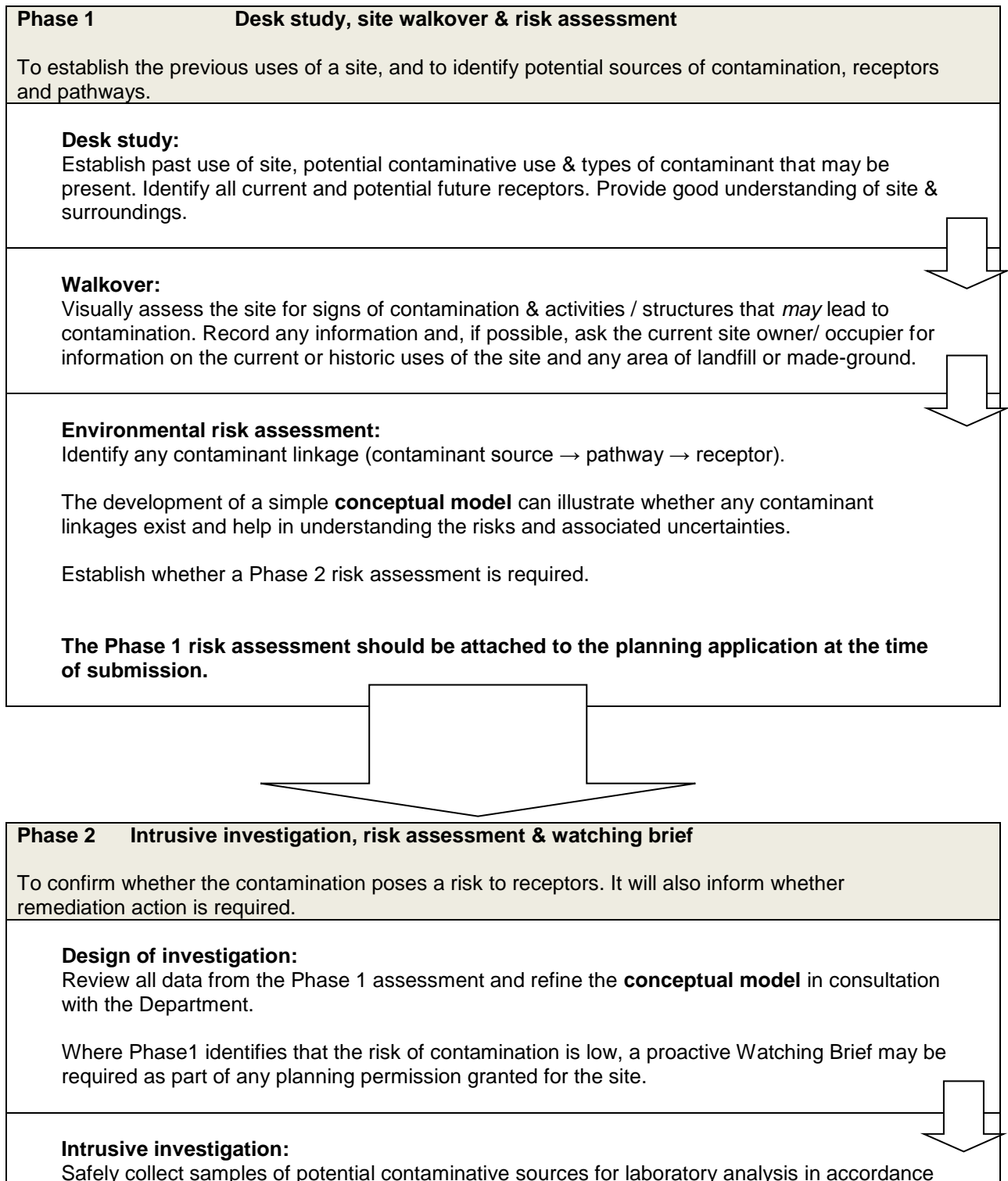
## **Investigation & Management of Contaminated Land**

There are three phases to contaminated land investigation and management, each requiring a risk assessment to be undertaken, based upon the information gathered. On sites where there has been an historic contaminative use identified, but the subsequent desk study does not identify any specific contamination, a 'watching brief' will be required as a potential risk of contamination would still exist.

Depending on what is discovered in the Phase 1 Risk Assessment, it may not be necessary to progress to a Phase 2 / 3 risk assessment, but this can only be determined on a site by site basis as the evidence presents itself.

More information as to the type of information required to be submitted with a risk assessment is found in Appendix 1.

The three phases of risk assessment are as follows:

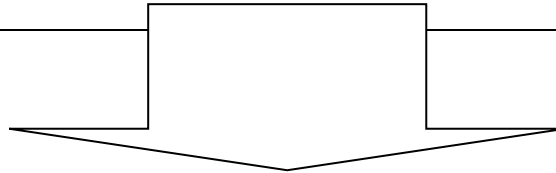




with BS:10175 UK Government guidelines or any successor to those guidelines.

**Reporting:**

Present a full and accurate report identifying the potential harm to receptors in accordance with industry best practice and evaluating the need / extent of any remedial action to remove the contaminant linkages.



**Phase 3 Remediation, verification & completion**

Required in all cases where the Phase 2 study identifies significant contamination linkages (ie source-pathway-receptor link). The study will require a land contamination remediation strategy to demonstrate how the site will be made safe.

**Design:**

Define the aims and methodology of the remediation exercise relative to the findings of the Phase 1 & 2 risk assessments.

**Remediation:**

Reduce the risks to receptors to acceptable levels in line with best practice and current technical guidance.

**Verification Report & Completion Certificate:**

Provide clear evidence of successful completion of works with confirmation of the reduction in risk to acceptable levels.

A Completion Certificate should be produced – See Annex 2 for example.

## *Useful contact details*

### **Planning and Building Services**

Department of the Environment  
South Hill, St. Helier. Jersey JE2 4US

t: 01534 445508

e: [planning@gov.je](mailto:planning@gov.je)

w: [www.gov.je/planningbuilding](http://www.gov.je/planningbuilding)

We also offer a free drop-in advice service at our South Hill office from 8.30am to 5.00pm Monday to Friday (excluding Bank Holidays).

### **Environment Section**

Department of the Environment  
Howard Davis Farm, La Route de la Trinité, Trinity. Jersey JE3 5JP

t: 01534 441600

e: [environmentenquiries@gov.je](mailto:environmentenquiries@gov.je)

w: [www.gov.je/Environment](http://www.gov.je/Environment)

### **Environmental Health**

Department of the Environment  
Maison Le Pape, The Parade, St Helier. JE3 3PU

t: 01534 445808

e: [environmentalhealth@gov.je](mailto:environmentalhealth@gov.je)

w: [www.gov.je/environmentalhealth](http://www.gov.je/environmentalhealth)

## Appendix 1

### Typical information required in risk assessments

| <b>Phase 1; Desk study, site walkover &amp; risk assessment</b>               |  |
|---|--|
| <b>Desk Study</b>   | <ul style="list-style-type: none"> <li>▪ Location map (1:2500)</li> <li>▪ Site plan (1:200) existing &amp; proposed</li> <li>▪ History of uses on site &amp; current occupiers</li> <li>▪ Soil type &amp; geology</li> <li>▪ Location &amp; quality of on-site or nearby controlled waters</li> <li>▪ Review of any previous site reports to include details of known pollution incidents and areas of made-ground / landfill</li> </ul>   |
| <b>Walkover</b>   | <ul style="list-style-type: none"> <li>▪ Photographs</li> <li>▪ Site topography</li> <li>▪ Condition of soil, vegetation, water courses, drains &amp; other site features</li> <li>▪ Condition of structures (eg signs of chemical attack on concrete)</li> <li>▪ Presence of waste materials / made-ground</li> <li>▪ Possible surface sampling if a Phase 2 risk assessment looks likely</li> </ul>  |
| <b>Environmental Risk Assessment</b>  | <ul style="list-style-type: none"> <li>▪ Identify contamination sources, pathways &amp; receptors</li> <li>▪ Identify links &amp; consider “suitable for use” approach to the proposed development</li> <li>▪ Details of methodology, assumptions &amp; references / sources</li> </ul>  |
| <b>Phase 2; Intrusive investigation, risk assessment &amp; watching brief</b> |  |
| <b>Design of Investigation</b>  | <ul style="list-style-type: none"> <li>▪ Design sampling &amp; testing programme based on Phase 1 data (see references in Appendix 4 for technical guidance)</li> <li>▪ Consider contamination pathways &amp; any potential risks of performing the intrusive investigation</li> <li>▪ Consider Health &amp; Safety implications of proposed works<sup>2</sup></li> </ul>  |
| <b>Intrusive Investigation</b>  | <p><b>- To be supervised by a suitably qualified person -</b></p> <ul style="list-style-type: none"> <li>▪ Trial pits / borehole logs with photographs, location plans and details of ground levels / ground water levels</li> <li>▪ Chain of custody for samples to include details of appropriate sampling containers and storage / dispatch methods and timings</li> <li>▪ Details of the investigation laboratory including accreditation, methods used etc</li> </ul>   |
| <b>Reporting / Risk Assessment</b>  | <ul style="list-style-type: none"> <li>▪ Details of all sampling points, depths, methodology &amp; procedures</li> <li>▪ All analytical results, limits of detection &amp; analytical commentary</li> <li>▪ Reference to any earlier site investigation reports</li> <li>▪ Details of any longer term monitoring deemed necessary</li> <li>▪ Prepare detailed site-specific risk assessment</li> <li>▪ Detail all methods and references used and the assumptions made</li> <li>▪ Provide full discussion of conclusions reached, referenced to the “suitable for use” approach to development and site utilisation<sup>3</sup></li> </ul> |

<sup>2</sup> See CIRIA (Construction Industry Research & Information Association) Report 132 – *A guide for Safe Working on Contaminate Sites* [1996]

|  |   |
|--|---|
| <b>Watching Brief</b>                                      | <ul style="list-style-type: none"> <li>▪ Adopt a Discovery Strategy specifying action in the event that previously unidentified contamination is found during groundworks. This may require running through Phase 2 again taking into account the discovery</li> </ul>  |
| <b>Phase 3; Remediation, verification &amp; completion</b> |   |
| <b>Remediation design</b>                                  | <ul style="list-style-type: none"> <li>▪ Submit remediation Statement to the Department prior to any Phase 3 works commencing. This must include explanation of method and basis of selection</li> <li>▪ Define remediation target levels and any associated actions</li> </ul>   |
| <b>Remediation</b>   | <p><b>- Requires implementation, supervision &amp; reporting by suitably qualified persons –</b></p> <ul style="list-style-type: none"> <li>▪ Management records &amp; monitoring reports</li> <li>▪ Waste management documentation including detailed records of materials remediated / removed</li> <li>▪ Prior approval from the Department for changes to method (e.g. if unexpected situation arises)</li> </ul> |
| <b>Verification</b>  | <ul style="list-style-type: none"> <li>▪ Confirmation that all targets have been met</li> <li>▪ Lab testing &amp; field testing should be related back to the design stage of remediation</li> <li>▪ Statement of limitation of process &amp; identification of site areas that may require longer term monitoring</li> </ul>   |
| <b>Completion</b>  | <ul style="list-style-type: none"> <li>▪ <b>Preparation of Completion Certificate</b> (see example at Appendix 2)</li> </ul>  |

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<sup>3</sup> In line with current UK DEFRA & Environment Agency guidance, the Contaminated Land Exposure Assessment (CLEA) AND Soil Guideline Values should be used to assess risk to human health. See references in Appendix 2 for technical guidance

## Appendix 2

### Completion Certificate Template

| <b>Contaminated Land Completion Certificate</b>  |  |
|--|--|
| <b>Note:</b><br><b>Please fill in Phase 1 in all instances.</b><br><b>Fill in Phase 2 &amp; 3 as appropriate</b> |  |
| Return 2 copies to the Department of the Environment and retain copy for your records.                           |  |
| Planning Permission Ref. No:   |  |
| Site Address:  |  |
| Proposed Development:  |  |

| <b>Phase 1;                      Desk study, site walkover &amp; initial assessment</b>   |
|---|
| I confirm that that above development was subject to a Phase 1 Risk Assessment approved by the Department of the Environment on: <input type="text"/> |
| Following completion of that Assessment, I can confirm that: [delete as appropriate*]   |
| a) *No contamination linkage was established. No further action required.   |
| <b>OR</b>   |
| b) *A risk of contamination was identified and a Phase 2 Risk Assessment undertaken [please complete the following section: 'Phase 2']                |
| Signed: <input type="text"/>  |
| Company: <input type="text"/>   |
| Date: <input type="text"/>  |

**Phase 2; Intrusive investigation, watching brief & assessment**

I confirm that that above development was subject to a Phase 2 Risk Assessment approved by the Department of the Environment on:

Following completion of that Assessment, I can confirm that: [delete as appropriate\*]

- a) \*A Watching Brief was established in accordance with the approved risk assessment and no significant contamination linkage was established. No further action necessary.

**OR**

- b) \* Significant contamination linkage established and Phase 3 Risk Assessment, Remediation & Verification undertaken [please complete the following section: 'Phase 3']

Signed:

Company:

Date:

**Phase 3; Remediation, verification & completion**

I confirm that that above development was subject to a Phase 3 Risk Assessment, Remediation and Verification exercise approved by the Department of the Environment on:

Following successful completion of that exercise, I can confirm that the site no longer contains any significant contamination linkages and that any risk posed to receptors have been reduced to acceptable levels in line with industry best practice and current technical guidance.

Signed:

Company:

Date:

## **Appendix 3**

### **Standard Conditions relating to Contaminated Land**

One or more of the following conditions will be attached to any planning permission granted for development on contaminated land. Failure to comply with the requirement of any condition could result in legal action being instigated to secure compliance.

#### *Watching Brief*

Notwithstanding the conclusions reached within the Phase 1 Desktop Study, following the commencement of development during the demolition and construction phases, should any contamination not previously identified be found, the Department of the Environment shall be informed as soon as possible. No further development shall be carried out (unless otherwise agreed in writing with the Department) until the levels of potential contaminants in the ground have been investigated and any risks to human health or the wider environment assessed and mitigated, in accordance with the requirements of Supplementary Planning Guidance Planning Advice Note - Development of Contaminated Land as may be amended.

#### *Remediation strategy*

No part of the development hereby approved shall be occupied until the levels of potential contaminants in the ground have been investigated, any risks to human health or the wider environment assessed and mitigation measures proposed in a remediation strategy to be submitted to and approved in writing by the Department of the Environment. The approved remediation strategy shall be implemented in full, in accordance with the requirements of Supplementary Planning Guidance Planning Advice Note - Development of Contaminated Land, as may be amended. Any changes to the strategy require the express written consent of the Department of the Environment prior to the work being carried out.

#### *Contaminated Land Completion*

No part of the development hereby approved shall be occupied until a completion report and contaminated land completion certificate demonstrating completion of the works and the effectiveness of any remediation set out in the approved scheme, is submitted to and approved in writing by the Department of the Environment. Where required by the Department the completion report shall also include a plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action and for the reporting of this to the Department.

## Appendix 4

### Where can I find more information on contaminated land?

The following sources of information and guidance are for your information only. The web-sites are not linked to the States of Jersey and, as such, the Department cannot accept any responsibility for their content or advice.

Environment Agency website at [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)

Gov.UK website at [www.gov.uk/contaminated-land](http://www.gov.uk/contaminated-land)

CIRIA at [www.ciria.org](http://www.ciria.org). Comprehensive guidance on all aspect of managing contaminated land.

Both the Gov.UK and Environment Agency sites have published further publications and guidance related to contaminated land, including:

Land contamination: Technical Guidance at:

[www.gov.uk/government/collections/land-contamination-technical-guidance](http://www.gov.uk/government/collections/land-contamination-technical-guidance)

Human health toxicological assessment of contaminants in soil (2009)

[www.gov.uk/government/publications/human-health-toxicological-assessment-of-contaminants-in-soil](http://www.gov.uk/government/publications/human-health-toxicological-assessment-of-contaminants-in-soil)

Model procedures for the management of land contamination (CLR11) (updated 2014)

[www.gov.uk/government/publications/managing-land-contamination](http://www.gov.uk/government/publications/managing-land-contamination)

Safe development of housing on contaminated land (2014)

[www.gov.uk/government/publications/guidance-for-the-safe-development-of-housing-on-land-affected-by-contamination](http://www.gov.uk/government/publications/guidance-for-the-safe-development-of-housing-on-land-affected-by-contamination)

Managing and reducing land contamination: guiding principles (2010)

[www.gov.uk/government/publications/managing-and-reducing-land-contamination](http://www.gov.uk/government/publications/managing-and-reducing-land-contamination)

Land contamination: technical guidance (2014)

[www.gov.uk/government/collections/land-contamination-technical-guidance](http://www.gov.uk/government/collections/land-contamination-technical-guidance)

A Guide to Using Soil Guideline Values (2009)

[www.gov.uk/government/publications/contaminated-soil-assessing-risks-on-human-health](http://www.gov.uk/government/publications/contaminated-soil-assessing-risks-on-human-health)

Soil Guideline Values for various contaminants

[www.gov.uk/government/publications/land-contamination-soil-guideline-values-sgvs](http://www.gov.uk/government/publications/land-contamination-soil-guideline-values-sgvs)

Contaminated land exposure assessment (CLEA) tool (2014)

[www.gov.uk/government/publications/contaminated-land-exposure-assessment-clea-tool](http://www.gov.uk/government/publications/contaminated-land-exposure-assessment-clea-tool)

Contaminants in soils: Collation of Toxicological Data and Intake Values for Humans

[www.gov.uk/government/publications/contaminants-in-soil-updated-collation-of-toxicological-data-and-intake-values-for-humans](http://www.gov.uk/government/publications/contaminants-in-soil-updated-collation-of-toxicological-data-and-intake-values-for-humans)

British Standards Institution: BS 5930:2015 Code of practice for ground investigations



British Standards Institution: BS 10175:2011+A1:2013 Investigation of potentially contaminated sites. Code of practice.

Guidance on the Management of Landfill Gas (2004)

[www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/321606/LFTGN03.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/321606/LFTGN03.pdf)

Planning Policy Statement 23: Planning and Pollution Control (and annexes) (2004)

[webarchive.nationalarchives.gov.uk/+/http://www.communities.gov.uk/planningandbuilding/planning/planningpolicyguidance/planningpolicystatements/planningpolicystatements/pps23/](http://webarchive.nationalarchives.gov.uk/+/http://www.communities.gov.uk/planningandbuilding/planning/planningpolicyguidance/planningpolicystatements/planningpolicystatements/pps23/)

Secondary Model Procedures for the Development of Appropriate Soil Sampling Strategies (2005)

[www.gov.uk/government/publications/secondary-model-procedure-for-the-development-of-appropriate-soil-sampling-strategies](http://www.gov.uk/government/publications/secondary-model-procedure-for-the-development-of-appropriate-soil-sampling-strategies)

Technical aspects of site investigation in relation to land contamination (2001)

[www.gov.uk/government/publications/technical-aspects-of-site-investigation-in-relation-to-land-contamination](http://www.gov.uk/government/publications/technical-aspects-of-site-investigation-in-relation-to-land-contamination)

Planning Practice Guidance: Land affected by contamination (revised 2014)

[planningguidance.planningportal.gov.uk/blog/guidance/land-affected-by-contamination/land-affected-by-contamination-guidance/](http://planningguidance.planningportal.gov.uk/blog/guidance/land-affected-by-contamination/land-affected-by-contamination-guidance/)

Guidance for the Safe Development of Housing on Land Affected by Contamination (R&D Publication

66: 2008) [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/290958/sr-dpub66-e-e.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/290958/sr-dpub66-e-e.pdf)

Protection of Workers & the General Public during the Development of Contaminated Land (Health & Safety Executive, 1991)