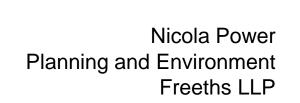


LEGAL ASPECTS OF LAND CONTAMINATION



Answers not options...

Outline

FREETHS

- Legal Framework
 - -Contaminated Land Regime
 - -Planning
 - -Other relevant regimes
- What is your report for?

Legal Framework: Contaminated Land Regime



- Part IIA Environmental Protection Act 1990 (or "Part 2A")
- Came into force 1 April 2000
- Local Authority's duties
 - -Inspect
 - -Identify
 - -Apportion liability
 - -Secure remediation



- "Contaminated land" is any land which appears to the local authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land, that
 - significant harm is being caused or there is a significant possibility of such harm being caused; or
 - significant pollution of controlled waters is being caused or there is a significant possibility of such pollution being caused;

Contaminated Land Regime (cont)



- Pollutant linkages
- Suitable for current use
- Special sites
- Appropriate persons
 - -Class A
 - Caused or knowingly permitted
 - Class B
 - Owners or occupiers
- Complex provisions for allocation of liability

Answers not options...

Legal Framework: Planning



- Most land contamination addressed through planning not Part 2A
- National Planning Policy Framework (NPPF)
 - Relevant to planning policies and individual decisions
 - -Site to be suitable for <u>new</u> use
 - After development, as a minimum, land should not be capable of being determined as contaminated land under Part 2A



- Planning applications
 - -Land contamination is a material consideration
 - Developer / landowner responsible for safe development
 - -LPA should be satisfied development:
 - Appropriate for its location
 - Does not pose an unacceptable risk <u>before</u> permission granted



- Pollution of controlled waters (groundwater and surface water)
- Environmental Damage Regulations
- Waste e.g. fly tipping
- Health and Safety legislation
- Common law claims (i.e. one individual / company against another)
 - -personal injury claims
 - nuisance type claims
- And more!

What is your environmental report for?



- Legal transaction
 - -Sale / purchase of land
 - -Lease of land
 - -Corporate purchase of entity holding land
- Planning application

What is your environmental report for? (cont)



- Part 2A e.g. voluntary remediation or site determination
- Baseline report for environmental permit
- Investigation of a pollution incident



Be clear:

- What is your report for?
- Who is your audience?
- What question are you trying to address and what is the relevant legal test?
- State the above and your scope / limitations





An environmental report is for life not just for Christmas!



Answers not options...

Contact

FREETHS



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