

YCLF Early Careers Event, University of York (21/9/22)

# Local Authority Contaminated Land Officer (CLO) Approach to Planning

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# Outline

- What do CLOs do?
- Part 2A
- Planning & NPPF
- Planning consultations
- What do CLOs look for in reports?
- Planning conditions
- Discharging planning conditions



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# What do CLOs do?

- CLOs deal with anything and everything to do with land contamination.
- Our statutory duties are set out in Part 2A of the Environmental Protection Act 1990 and the associated Statutory Guidance.
- Land contamination is a material planning consideration, and we spend most of our time dealing with sites through planning.



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# Part 2A – Key Points

- Local authorities (LAs) have a statutory duty to inspect their areas for contaminated land and to ensure that any contaminated land is remediated.
- Each LA should have its own contaminated land strategy outlining how it will carry out its Part 2A duties.
- Due to a lack of funding, most LAs deal with sites through planning as opposed to Part 2A.



# Part 2A – Definition of Contaminated Land

*“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 —*

*(a) significant harm is being caused or there is a significant possibility of such harm being caused; or*

*(b) significant pollution of controlled waters is being caused or there is a significant possibility of such pollution being caused.*



# Planning & NPPF – Key Points

- Land contamination is a material planning consideration.
- LAs need to be confident that a site can and will be made suitable for its proposed use.
- After remediation, as a minimum, land should not be capable of being determined as contaminated land under Part 2A.



# NPPF – Section 183

‘Planning policies and decisions should ensure that:

- a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);
- b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and
- c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.’



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# Planning Consultations

- Planning officers consult CLOs where there is potential for contamination to influence the site, or where the proposed development is vulnerable.
- CLOs review the land contamination reports and any other relevant reports.
- CLOs submit their comments and recommendations to the planning officer.



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# What do CLOs look for in reports?

Has sufficient information been submitted with the planning app?

Is the report author suitably qualified and experienced?

Are all the appendices included?

How old is the report?



Does the site boundary and proposed use in the report match the planning app?

# What do CLOs look for in reports?

## Unacceptable reports

If reports are unacceptable, or insufficient information has been submitted, CLOs will usually request additional information or recommend refusal of planning permission.



# What do CLOs look for in reports?

## Phase 1's

- A detailed review of historical maps and records to identify potential sources of contamination.
- An assessment of the environmental setting – geology, hydrogeology, hydrology, radon potential, mining/quarrying activities, landfill sites etc.
- A site walkover survey – this should build upon the desk study information and identify any other potential sources of contamination e.g. deposits of waste material and asbestos, made ground, tanks, storage of hazardous chemicals.
- Details of the proposed site use.
- A conceptual site model – identification of all potential contaminant linkages and an assessment of the likelihood & severity of each.
- Recommendations for further work and a brief sampling strategy (if relevant).



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# What do CLOs look for in reports?

## Phase 2's

- A review of any previous land contamination reports or remedial works.
- Site investigation methodology – including a sampling strategy and justification.
- Investigations carried out in line with LCRM, British Standards and other good practice guidance.
- Sample location plan, borehole logs, lab analysis results & monitoring data.
- Visual/olfactory evidence of contamination.
- Consider potential soil, gas and water contamination.
- Sufficient sampling/monitoring to characterise the contamination regime at the site.
- Use of appropriate assessment criteria (GACs, SSACs, GSVs etc).
- Updated conceptual site model.
- Recommendations for further investigation and/or remediation.



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# What do CLOs look for in reports?

## Remediation Strategies

- A review of any previous land contamination reports or remedial works.
- Details of the potential pollutant linkages which require remediation.
- Options appraisal and justification for chosen method of remediation.
- Detailed explanation of the remediation works to be undertaken.
- Appropriate remedial target criteria.
- Details of the proposed verification works.
- Details of any long-term monitoring and management requirements.
- Contingency measures for unexpected contamination.



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# What do CLOs look for in reports?

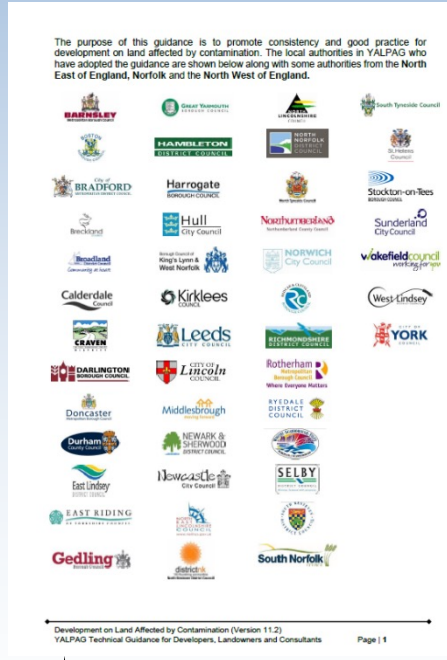
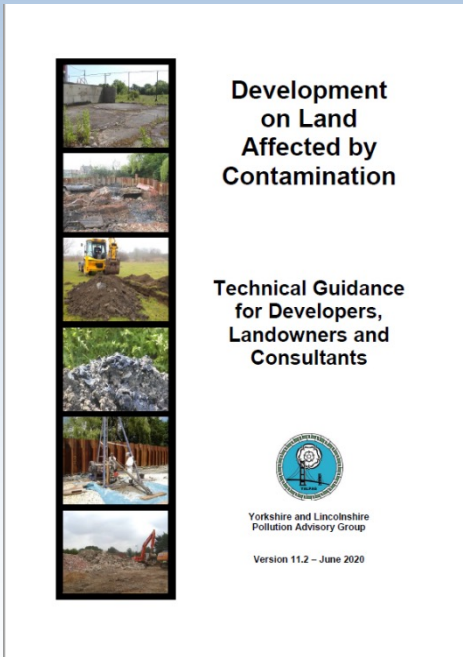
## Verification/Validation Reports

- Objectives of the remediation works.
- Detailed description of all remediation works carried out – including plans, drawing etc.
- Details of who carried out the work.
- Details and justifications of any changes to the agreed remediation strategy.
- Verification sampling and detailed comparison against remedial target criteria.
- Evidence showing the appropriate installation of gas protection systems (where relevant).
- Evidence showing the source, the depth and the suitability of clean cover systems (where relevant).
- **Confirmation that remediation objectives have been met and that the site is suitable for its intended use.**



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# YALPAG planning guidance



Available to download from  
Knowledge Hub

<https://khub.net/documents/6039378/17952859/YALPAG+Planning+Guidance+%28Version+11.2%29.pdf/32a86523-9040-57c9-2efb-4b01d2e5ea7d?t=1593446758630>

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# Recommending planning conditions

- CLOs will usually recommend planning conditions if further investigation work and/or remediation is needed to make a site safe and suitable for its proposed use.





# Standard planning conditions

- Most CLOs use a series of standard land contamination conditions:
  - 1 – site investigation
  - 2 – remediation strategy
  - 3 – complete remediation & submit a verification report
  - 4 – dealing with unexpected contamination



# CYC Standard planning conditions

## Condition 1: Investigation of Land Contamination

Prior to development (excluding demolition), a site investigation and risk assessment must be undertaken to assess the nature, scale and extent of any land contamination and the potential risks to human health, groundwater, surface water and other receptors. A written report of the findings must be produced and is subject to approval in writing by the Local Planning Authority. It is strongly recommended that the report is prepared by a suitably qualified and competent person.

*Reason: To ensure that the site is suitable for its proposed use taking account of ground conditions and any risks arising from land contamination.*



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# CYC Standard planning conditions

## **Condition 2: Submission of a Remediation Strategy**

Where remediation works are shown to be necessary, development (excluding demolition) shall not commence until a detailed remediation strategy has been submitted to and approved by the Local Planning Authority. The remediation strategy must demonstrate how the site will be made suitable for its intended use and must include proposals for the verification of the remediation works. It is strongly recommended that the report is prepared by a suitably qualified and competent person.

*Reason: To ensure that the proposed remediation works are appropriate and will remove unacceptable risks to identified receptors.*



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# CYC Standard planning conditions

## Condition 3: Verification of Remediation Works

Prior to first occupation or use, remediation works should be carried out in accordance with the approved remediation strategy. On completion of those works, a verification report (which demonstrates the effectiveness of the remediation carried out) must be submitted to and approved by the Local Planning Authority. It is strongly recommended that the report is prepared by a suitably qualified and competent person.

*Reason: To ensure that the agreed remediation works are fully implemented and to demonstrate that the site is suitable for its proposed use with respect to land contamination. After remediation, as a minimum, land should not be capable of being determined as contaminated land under Part 2A of the Environmental Protection Act 1990.*



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# CYC Standard planning conditions

## Condition 4: Reporting of Unexpected Contamination

In the event that unexpected land contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and, if remediation is necessary, a remediation strategy must be prepared, which is subject to approval in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation strategy, a verification report must be submitted to and approved by the Local Planning Authority. It is strongly recommended that all reports are prepared by a suitably qualified and competent person.

*Reason: To ensure that the site is suitable for its proposed use taking account of ground conditions and any risks arising from land contamination.*



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# Discharge of planning conditions

- Approval of details / discharge of conditions applications and the relevant land contamination reports need to be submitted to planning, who will then consult the CLO.
- Conditions 1 & 2 (site investigation & remediation strategy) should be fulfilled and discharged prior to development (excluding demolition).
- Condition 3 (verification) should be fulfilled prior to first occupation/use.
- Condition 4 (unexpected contamination) only applies if unexpected contamination is found.



# Why do planning conditions need to be discharged?

- Confirmation that land contamination has been investigated and remediated appropriately.
- Confirmation that the site is suitable for its proposed use.
- Protection from future Part 2A action.
- Important for building warranties, property sales and mortgages.



# Contacting the CLO

- CLOs have lots of knowledge about sites in their areas.
- Most CLOs are happy to discuss sites and proposed remediation works with consultants.
- But please remember that reports need to be submitted formally via planning.





# Thanks for listening

## Any questions?



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