Prosiect Maen Hir

Solar a Storio Ynni

Preliminary Environmental Information Report

Volume III

Appendix 11-2: Ground Conditions Legislative Context and Policy

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Introduction

1.1 Ground Conditions

UK Legislation

Part IIA of the Environmental Protection Act, (1990)

1.1.1 The applicable legislative framework for Contaminated Land is set out in Part 2A of the Environment Act 1990 and associated statutory guidance.

1.1.2 Part IIA of the Environmental Protection Act, (1990) and the supporting statutory guidance describes a regulatory role for Local Authorities in dealing with contaminated land.

1.1.3 Environment Act, (1995) creates a system whereby Local Authorities must identify, and if necessary, arrange for the remediation of contaminated sites. The provisions are set out in Section 57, which inserts Part IIA into the Environmental Protection Act, 1990. In addition to these requirements, the operation of the regime is subject to regulation and statutory guidance.

1.1.4 The Act provides a definition of what constitutes 'contaminated land' and sets out the responsibilities of the Local Authority and the EA in the identification and management of contaminated land. Under the Regulations, contaminated land is defined as:

'Land which is in the opinion of the Local Authority to be in such a condition by reason of substances in or under the land that;

significant harm is being caused or there is significant possibility of significant harm being caused; and

significant pollution of controlled waters is being caused or there is a significant possibility of significant pollution of controlled waters being caused'.

1.1.5 Harm is defined in relation to harm to the health of living organisms or other interference with the ecological systems of which they form a part, and in the case of man includes harm to property. The potential for harm to occur requires three conditions to be satisfied:

- Presence of substances (potential contamination/pollutants) that may cause harm (source of pollution);

- the presence of a receptor which may be harmed e.g. the water environment or humans, buildings, fauna and flora (the receptor); and
- the existence of a linkage between the source and receptor (the pathway).

1.1.6 Therefore, the presence of measurable concentrations of contaminants within the ground and subsurface environment do not automatically imply that a contamination problem exists, since contamination must be defined in terms of pollutant linkages and unacceptable risk of harm.

1.1.7 The nature and importance of both pathways and receptors which are relevant to a particular site will vary according to the intended use of the site, its characteristics, and surroundings.

National Planning Policy Framework (NPPF) (2023)

1.1.8 The National Planning Policy Framework (NPPF) (2023) sets out the Government's planning policies for England. It makes the following reference to Contaminated Land and ground conditions in the section entitled Conserving and enhancing the natural environment:

'Para 174. Planning policies and decisions should contribute to and enhance the natural and local environment by:

e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and

f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.'

1.1.9 It also makes the following references to ground conditions and pollution:

'Planning policies and decisions should ensure that:

Para 183 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.

Para 184. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.'

Construction (Design & Management) Regulations

1.1.10 The Construction (Design & Management) (CDM) Regulations make explicit duties that exist under the Health and Safety at Work Act and the Management of Health and Safety at Work Regulations. This requires clients to use their influence to ensure that the arrangements made by other duty holders are sufficient to safeguard the health and safety of those working or those affected by that work.

Regional Legislation

1.1.11 National Resource Wales (NRW) have produced the following guidance documents which sets out the risk assessment process for contaminated land sites in Wales:

- Development of Land Affected by Contamination: A Developers Guide, V4 2023, prepared by the Welsh Land Contamination Working Group

1.1.12 The Welsh Government produced Contaminated Land Statutory Guidance (2012) document which sets out the legal framework for dealing with contaminated land in Wales, in accordance with Part 2A of the Environmental Protection Act 1990.

Local Legislation

1.1.13 The Anglesey and Gwynedd Joint Local Development Plan 2011-2026 sets out local requirements.

1.1.14 Para 6.5.4 highlights that the whole of Anglesey has been designated by UNESCO as a Global Geopark, with Strategic Policy PS19 setting out the policy for conserving and where appropriate enhancing the natural environment, which includes safeguarding geology.

Other Guidance

1.1.15 The relevant guidance documents that will inform the Assessment are listed in Section 2. The following specific guidance will be utilised to inform the sensitivity criteria:

- EA Guidance on Land Contamination Risk Management (LCRM); and
- EA Groundwater Protection Guidance.

2 References

Ref 1-1 Association of Ground Investigation Specialists. 2006. Guidelines for Good Practice in Site Investigation. Issue 2. AGS, Beckenham.

Ref 1-2 Building Research Establishment (BRE). 2001. Concrete in aggressive ground. BRE Special Digest 1, Parts 1 to 4. BRE, Garston.

Ref 1-3 Building Research Establishment (BRE) BR211, Radon; Guidance on Protective Measures for New Buildings (2015)

Ref 1-4 British Plastic Federation. August 2018. 'Designing Drains and Sewers for Brownfield Sites. Guidance Notes'. BPF Pipes Group (https://www.bpfpipesgroup.com/media/29155/Designing-drains-and-sewers-for-brownfield-sites.pdf)

Ref 1-5 British Standards Institution. 2007. Eurocode 7 – Geotechnical design - Part 2: Geotechnical investigation and testing. BS EN 1997-2. BSI, London.

Ref 1-6 British Standards Institution. 2009. Code of practice for earthworks. BS 6031 Incorporating Corrigendum No.1:2010. BSI, London.

Ref 1-7 British Standards Institution. 2004+A1 2013. Eurocode 7 – Geotechnical design - Part 1: General rules. BS EN 1997-1+A1. Incorporating Corrigendum February 2009. BSI, London.

Ref 1-8 British Standards Institution. 2015. Code of Practice for Foundations. BS 8004. BSI, London.

Ref 1-9 British Standards Institution. 2015+A1:2020. Code of practice for Site Investigations. BS 5930:2015+A1:2020. BSI, London.

Ref 1-10 British Standards Institution. 2015 +A1:2019. Code of practice for the characterization and remediation from ground gas in affected developments. BS 8485:2015 +A1:2019. BSI, London.

Ref 1-11 British Standards Institute. 2017. Investigation of potentially contaminated sites, Code of Practice. BS 10175 Incorporating Amendment No. 2:2017. BSI, London.

Ref 1-12 Construction Industry Research and Information Association (CIRIA), Report 132, A Guide to Safe working on Contaminated Sites (1996).

Ref 1-13 Construction Industry Research and Information Association (CIRIA). 2001, C522 Contaminated land risk assessment, A guide to good practice.

Ref 1-14 Construction Industry Research and Information Association (CIRIA). 2007, Report C665, Assessing Risk Posed by on Hazardous Ground Gases to Buildings

Ref 1-15 Department for Communities and Local Government (DCLG), 2012, National Planning Policy Framework.

Ref 1-16 Department for Environment Food and Rural Affairs (DEFRA), 2012, Environmental Protection Act 1990: Part 2A Contaminated Land Statutory Guidance.

Ref 1-17 CIEH and CL:AIRE. May 2008. Guidance on comparing soil contamination data with a critical concentration. Chartered Institute of Environmental Health and Contaminated Land: Applications in Real Environments, London.

Ref 1-18 CL:AIRE, 2011. Definition of Waste: Development Industry Code of Practice Version 2.

Ref 1-19 Construction (Design and Management) Regulations 2015.

Ref 1-20 Control of Asbestos Regulations, Health and Safety Executive 2012.

Ref 1-21 Environment Agency. 2006. Remedial Targets Methodology. Hydrogeological Risk Assessment for Land Contamination. The Environment Agency, Bristol, 123pp.

Ref 1-22 Environment Agency, 2004. Model procedures for the management of land contamination. Contaminated Land Report 11, Bristol: The Environment Agency. (Revoked, but referenced in NPS NN).

Ref 1-23 Environment Agency, 2008. Guidance for the Safe Development of Housing on Land Affected by Contamination. RDP 66, Bristol: The Environment Agency.

Ref 1-24 Environment Agency. 2020. Land Contamination: Risk Management (LCRM). The Environment Agency.

Ref 1-25 Stone, K., Murray, A., Cooke, S., Foran, J. And Gooderham, L. 2009. Unexploded ordnance (UXO), a guide to the construction industry. CIRIA Report C681. Contaminated Land: Applications in Real Environments, London.

Ref 1-26 The Asbestos (Licensing) Regulations 1998.

Ref 1-27 The Health and Safety at Work etc. Act 1974.

Ref 1-28 The Highways Agency. 2019. Design Manual for Roads and Bridges. Managing Geotechnical Risk. CD 622 Rev 0. Highway Agency, London.

Ref 1-29 Wilson, S., Oliver, S., Mallett, H., Hutchings, H. and Card, G. 2007. Assessing risks posed by hazardous ground gases to buildings. CIRIA Report C665. CIRIA, London. 182pp.