

**PLANNING AND LICENSING COMMITTEE**

**12<sup>th</sup> December 2018**

**ADDITIONAL PAGES**

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**ADDITIONAL PAGES - CIRCULATED TO MEMBERS BY POST**

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LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

Additional Representations on Schedule Items

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ADDITIONAL PAGES ON SCHEDULE ITEMS

Item	Ref. No	Content
02	17/04151/FUL	<p><b>Summary of the role of ERS</b> – Please see attached.</p> <p><b>Case Officer Update</b> - Following discussions with Albion Water, the applicant has now agreed to provide a mains water supply to the allotments.</p>
06	18/03317/FUL	<p><b>Email from Cllr Stowe received on the 3<sup>rd</sup> December clarifying his interest in the application -</b></p> <p>‘Further to our phone call last week:</p> <p>In connection with the current application at the Tearoom, Mickleton, please note the Applicant should be listed as Mr R Blackmore t/as Decades Tearoom.</p> <p>My interest is that I’m a director of the company who are the landlords.’</p> <p><b>A revised planning application form listing Mr R Blackmore as the applicant has now been submitted.</b></p>

## Summary of the role of ERS, in particular, in advising the Council on land contamination issues

### ERS responsibilities

ERS provides an environmental health service to Cotswold District Council as part of the Publica Group. Our role is to fulfil the Council's statutory role and provide advice on various environmental technical matters within the district including air quality, pollution, noise and assessing the effects on land condition by the presence of pollutants. Furthermore, ERS contamination staff are active in the development and setting of national policy and practice in England, and advise and scrutinise emerging technical good practice guidance.

The Council is empowered mostly to deal with historic land contamination, because ongoing pollution issues are mostly dealt with under other legislation. There are two main routes for dealing with land contamination, via:

1. The Environmental Protection Act 1990 Part IIA (applied to historic land where unacceptable contamination is suspected and for which no change of use is envisaged); and
2. The planning process.

The two regulatory regimes are mutually exclusive, that is contamination being considered within the planning process cannot be simultaneously addressed under Part IIA of EPA 1990.

### Planning regime

Land contamination is a material consideration within the planning process and under the National Planning Policy Framework (NPPF), the latest version of which was published in July 2018, the Council has to take into account in its policies and decisions land that is, amongst other things, derelict and/or contaminated (Section 15 – paragraphs 178 - 183).

As part of the planning process, ERS provides technical expertise to the Local Planning Authority with regard to human health risks from land contamination as a result of its current or historical use.

If a suspect site is to be redeveloped, conditions pertaining to land contamination may be placed on the planning permission where it is considered that there may be potential risks to human health or the environment. These conditions ensure the contamination is investigated and, where necessary cleaned up to a suitable level. The Council is not responsible for the clean-up, or any costs involved, the responsibility for safe development rests with the developer and/or landowner.

The NPPF states that planning decisions should ensure that:

- 'a site is suitable for its proposed use taking account of ground conditions and any risks arising from...contamination...and any proposals for mitigation including land remediation' (para. 178)
- 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
- adequate site investigation information, prepared by a competent person, is presented.

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## Environment Agency – UK Framework for assessing land contamination

The Environment Agency has produced a technical framework for structured decision-making about land contamination, where the basic process involves model procedures intended to assist in managing the land.

The overall approach in dealing with past land contamination is one of risk management and the approach taken is:

- Assess the potential for risk
- Quantify that risk
- Seek to manage the risk by reducing its magnitude or illuminating it altogether.

There are three essential elements to any risk:

- source of contamination
- pathway (the means by which the source reaches a place where it cause a problem)
- receptor (someone or something that is adversely affected by the source of contamination)

These can exist independently without a problem but may create a risk when all three are present. This is known as a 'pollutant linkage'.

## Assessing risks from land contamination

The risk assessment process focuses on the question of whether there is an unacceptable risk. There can be different criteria for different receptors and the circumstances of their exposure to contamination. There are published evaluation criteria to aid the risk assessment process and these are set in a relation to a level of harm or pollution to a receptor.

There are many guidance documents which underpin the framework for assessing the risks from land contamination.

## Review of third party assessments

Once assessments are complete the Council scrutinises plans for remedial works to land contamination that the risk assessment process identifies as necessary. Once these are concluded the developer is expected to produce a verification report describing what actions have been completed.

ERS pay due consideration to the Environment Agency technical framework as well as relevant legislation and guidance documentation in order to make an informed decision with regard to human health risks from land contamination.

## Responsibilities of other regulators

The regulation of contamination is spilt between several bodies, but in most cases the Council considers matters affecting human health, whereas the Environment Agency is responsible for water pollution and regulating waste (including waste arising from contaminated sites).

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