

How do I obtain a search of the Councils Environmental Protection Records?

We prefer if requests can be submitted in writing (either by post or by email to the address that follows) and include the following information:

- Your name & address
- The address of the site concerned
- A plan or map showing the site and surrounding area
- A copy of any information you already hold (e.g. commercial site search)

The Council will respond by post to your request, so be sure to include a postal address if submitting by email. If you are able to tell us the purpose of your search, such as buying a house, it can help in the way we present the information.

The Council will respond to your request within 21 working days of receipt. Unfortunately we are not able to provide copies of maps or plans.

Contact details:

Breckland Council
Environmental Protection
Elizabeth House
Walpole Loke
Dereham
Norfolk NR19 1EE

Phone: 01362 656 870
Fax: 01362 656 266
Email: envprotect@breckland.gov.uk
Web: www.breckland.gov.uk

HOUSE SALES AND CONTAMINATED LAND

frequently asked questions



www.breckland.gov.uk

Could your house sale / purchase be affected by Contaminated Land?

Breckland Council have produced this booklet in order to provide initial information to householders and solicitors at the time of property transactions.

It is intended to give a brief introduction to the subject, and to address a number of the questions our officers are routinely asked.

If after reading this booklet you require further assistance, please do not hesitate to contact our environmental protection team or visit our website:

Contact details

Breckland Council
Environmental Protection
Elizabeth House
Walpole Loke
Dereham
Norfolk NR19 1EE

Phone: 01362 656 870
Fax: 01362 656 266
Email: envprotect@breckland.gov.uk
Web: www.breckland.gov.uk

This leaflet does not aim to set out to provide a detailed statement of the law, specialist professional advice should always be sought in dealing with specific problems.

contamination if there were concerns. You are then advised to check that the condition has been discharged. If land was contaminated and has been remediated, you will know that it has been made suitable for use. If there is no evidence of harm as a result of contamination, it is unlikely that the council would take legal action or define the land as contaminated.

What happens if I've had a commercial search done and they won't issue a certificate?

You will need to find out more about the land. Although a certificate is not a requirement, the certificate or professional opinion is intended to help you interpret the findings of your environmental search. Environmental searches from commercial providers often rely on third party information. If you aren't issued with a certificate it doesn't mean that the land is contaminated, just that more detailed information is needed. At this point you may want to formally request some more information from the Council or other sources. Your search provider may also advise you on further action to take.

What happens if I have done all of that and the information I have obtained is still inconclusive?

This is probably the point at which you would need to seek professional advice. It varies from case to case as to who pays for this advice, either the potential purchaser or the current owner. Whilst the Council is able to give general advice at this time, and will comment on any information received, **we do not undertake the investigation for you.** Companies that undertake this work can be found in trade directories or through the phonebook. If you've made enquiries about the status of the property and received an opinion that it is not contaminated land, you then have important documents that will assist in selling your house in the future.

health of occupiers or the wider environment. For health effects to take place you would usually need to have regular prolonged contact with the source of contamination or the dust or vapours produced by it. When sites are redeveloped, careful consideration is made of what future occupants would be exposed to, especially those most vulnerable such as children.

How can I find out more about land contamination?

Information and environmental searches are available from commercial suppliers and these companies may also give a certificate or opinion on the possibility that the land may fit the legal definition of contaminated land.

In addition, on request, the Council will undertake a search of its records for information it may hold about a particular site or its immediate vicinity. More information on how to obtain this is presented at the end of this document. However, the information we provide is based on information given to us by other people, and in some cases the information we hold is confidential. Therefore, we may refer you on to other sources of information.

Alternatively, you may be able to find out other information from viewing the planning files which relate to your development, especially if it is a relatively modern development. This information is available from Development Control.

Will I be able to sell my house?

When a local search is undertaken by your solicitor questions are automatically asked as to whether the land has had legal action taken as a result of it being contaminated land. This is different to when a development has been remediated through the planning process and you are advised to make your own enquiries. A starting point for this would be the planning permission, which should contain a condition relating to

Why do I need to know about contaminated land?

In preference to using new land for housing in Breckland, old industrial sites are often reclaimed for housing and if this is the case for your property, it may be highlighted as such at the time of property transactions. It is important that you know as much as possible about what was done in order to make the site suitable for its new use.

In June 2001, the Law Society sent an advice card to make sure that solicitors advise their clients of potential liabilities associated with contaminated land. Your solicitor may advise you to undertake an independent site history investigation, e.g. obtaining a site report or environmental search from a commercial company.

All local councils now have a duty to identify sites that fit the legal definition of contaminated land. The Council has drawn up a strategy to inspect the local area to find the most serious sites first.

In certain cases, if the original polluter of contaminated land cannot be found then the new owner of the land may be liable for cleaning it up.

What is contaminated land?

The legal definition of Contaminated Land, as provided by Part IIA of the Environmental Protection Act 1990, is:

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) *pollution of controlled water is being, or is likely to be, caused.*

A lot of information has been squeezed into this definition to provide a route to identify contaminated land.

Three main components must be identified: firstly, a *source* of contamination must exist (examples discussed later); secondly a *receptor*, such as a person or the groundwater that we drink; finally and most fundamentally, a *pathway*, by which the source reaches the receptor. This could be direct contact with garden soil for the person or by filtering through the soil to groundwater.

Therefore the mere presence of contamination at a site will not necessarily render it 'contaminated land'.

How does land contamination happen?

The UK has a long industrial history traceable back over hundreds of years. Various industrial practices have led to release of chemicals, oils and tars in many locations. Also, in the past, chemical storage and waste disposal were not as tightly controlled as they are today. Therefore when such a site is to be redeveloped, this must be considered.

Is all past industrial land now contaminated?

It is important to note that past industrial use does not always indicate contamination is present today. Firstly, if the industry occurred a long time ago, there is a possibility that any contaminants present then will have changed to such a degree that they are no longer considered harmful. Secondly, many houses are built with the industrial past of the site in mind and appropriate remediation work is often carried out when the houses are built. Remediation is discussed shortly.

Land is sometimes shown as potentially contaminated if it appears on old landfill records. Norfolk has many former sand and gravel, chalk or clay pits where material was extracted and in some cases these were filled with landfill material under license, however for many of these pits there are no records of the backfill material.

What can be done to make land contamination safe?

These days, house builders have to routinely consider the past industrial use of a site they propose to build houses on, and carry out appropriate remediation works at the site. 'Remediation' means removing any contamination off site, treating it so it is safe or creating a barrier so there is no possible linkage between contamination and the receptor (such as future occupiers). This is closely monitored by the local authority and, in some cases, the Environment Agency. Conditions put on the planning approval will not be discharged until the council is satisfied that all works have been carried out as necessary.

Where housing is proposed near backfilled land or landfill sites, the houses are built to a specification that takes account of the small chance of migrating gases. When landfills do close now however, they go through a careful process whereby they are capped to prevent escaping gases and gases are actively managed. Usually, no houses would be built near such a site until a period of time has passed and the site is viewed as stable.

Is it safe to live on land affected by past use?

In most cases the risk from living on previously used land is low or negligible. Quite often there is more effect on the value of a property from perceived risk rather than the actual effects to the