

# Land Forum Meeting

30<sup>th</sup> June 2015

Meeting Notes



Location: ERM Offices, 2<sup>nd</sup> Floor, Exchequer Court, 33 St Mary Axe, London EC3A 8AA

11.00am – 4.00pm

## FINAL

### Present:

Seamus Lefroy Brooks ( <i>Chair</i> )	
Nicola Harries ( <i>Secretariat</i> )	Contaminated Land: Applications In Real Environments (CL:AIRE)
Maggie Charnley	Defra
Matthew Whitehead	Environment Agency
Frank Evans	Soil and Groundwater Technology Association (SAGTA)
Chris Taylor	SoBRA
Phil Crowcroft	Specialist in Land Condition Register (SiLC)
Richard Boyle	Homes and Communities Agency (HCA)
Rob Ivens	Mole Valley Council
Peter Witherington	Home Builders Federation (HBF)
Julia Reynolds	Yorkshire and Humberside Pollution Advisory Council
Eleanor Whittle	Defra (Part of Meeting)
Steve McKenna	Royal Institution of Chartered Surveyors (RICS)

### By telephone:

Matthew Llewellyn	Natural Resources Wales
Richard Clark	Welsh Government
Theresa Kearney	Environment Agency, Northern Ireland
Caroline Thornton	Scottish Environment Protection Agency (SEPA)
Lisa Hathway	National House Building Council (NHBC)

### Apologies:

Rachael Davies	Welsh Contaminated Land Working Group
Mark Edwards	Lancaster Council
Andrew Wiseman	UKELA & EP UK
Trevor Howard	Environment Agency
Paul Sheehan	Environmental Industries Commission (EIC)
Julia Thrift	Town and Country Planning Association (TCPA)
Howard Price	Chartered Institute of Environmental Health (CIEH)
Euan Hall	Land Trust (LT)
David Middleton	Defra
Elaine Wort	Natural Resources Wales
Peter Johnson	UK Contractors Group/UK Strategic Forum for Construction
Nicky Linihan/John Silvester	Planning Officers Society
Peter Ellis	Communities and Local Government (CLG)
Trystan James	Natural Resources Wales

## Agenda

1. Welcome and Apologies
2. Introductions of represented organisations
3. Review of previous minutes & actions
4. Update from Government Departments and Environment Agencies
  - Welsh Government & Natural Resources Wales
  - Scottish Government & Scottish Environment Protection Agency
  - Department of Environment Northern Ireland & Environment Agency
  - CLG
  - Defra Soil and Contaminated Land Team
  - Environment Agency
  - Defra Smarter Environmental Regulations Review Team (SERR)
5. Standards update – what's new
6. Appointment of new deputy chair
7. Discussion Topics
  - National Quality Mark Scheme for Land Affected by Contamination – consultation results
8. AOB
9. Date and location of next meeting

## Meeting Notes

### 1) Welcome & Apologies

Seamus Lefroy Brooks (SL-B) welcomed everyone and apologies were given. He thanked ERM for hosting the meeting. Paul Sheehan provided the housekeeping and health and safety briefing. Nicola Harries explained that Julia Swift of TCPA had sent her apologies and also said that they would like to stay engaged as a corresponding member only of the Land Forum as they do not have resources to attend all meetings.

### 2) Introductions of represented organisations

Introductions were performed around the table.

### 3) Review of Previous Actions

Most actions were completed. The only outstanding action was on Future Direction of Land Forum. An action going to be led by Euan Hall but unfortunately he was unable to attend this meeting, so has been carried over to the next meeting.

### Future Direction of Land Forum

EH prepared a think piece for the strategic role of the Land Forum suggesting a debate about “land use – away from harmful brownfield v greenfield which could paralyse development”.

EH felt that there are so many myths about brownfield land v greenfield that he felt that the Land Forum had a good opportunity to open the debate. He felt that there was a good opportunity to engage further with CPRE, RICS, RTPI and others and pull together the ideas and have an open debate. Unfortunately presently there is no reliable data on actual available land for development.

TCPA confirmed that they would support such a debate.

Brownfield land has many conflicting demands with contamination being just one.

Euan Hall (EH) offered to take the lead on opening up the debate. Julia Thrift (JT) of TCPA also happy to support.

**ACTION: EH to move forward the concept of Land Forum debating brownfield v greenfield.**

#### 4) Update from Government Departments and Environment Agencies

##### Welsh Government and Natural Resources Wales

Matthew Llewellyn (ML) provided the update on behalf of the Welsh Government (WG) and Natural Resources Wales (NRW). ML confirmed that NRW had commented on the National Quality Mark Scheme (NQMS) for Land affected by Contamination consultation. They are also organising some internal training for their staff which will include a briefing on the NQMS which Matthew Whitehead of Environment Agency will be undertaking on October 2015.

Welsh Government is currently consulting on proposals for new regulations to protect the environment and properties as a result of spills from oil storage containers. The consultation started on 24<sup>th</sup> June 2015 and finishes on 24<sup>th</sup> September. To access the consultation follow the link:

<http://gov.wales/consultations/environmentandcountryside/prevention-of-pollution-oil-storage-wales-regulations/?lang=en>

The State of Contaminated Land in Wales report is nearing completion and they are aiming to publish by the Summer 2015.

NRW is also moving forward with the remediation of a Special Site in Wales as it has received voluntary contributions from appropriate persons.

### Scottish Government & Scottish Environment Protection Agency

Caroline Thornton (CT) provided an update on behalf of Scottish Government and SEPA. Scottish Government (SG) is looking to amend s.78YB of Part IIA in order to clarify the interaction between Part IIA contaminated land and the Water Environment (Controlled Activities) (Scotland) Regulations 2011.

Also revenue Scotland is looking at Scottish Landfill Tax and contaminated soil. This relates to material qualifying at the lower landfill tax rate. One proposal is to use Waste Acceptance Criteria (WAC). If it doesn't meet WAC then it would automatically be charged at the higher rate. A consultation is currently out but closes on 15<sup>th</sup> July 2015.

### Department of Environment Northern Ireland & Environment Agency

Theresa Kearney (TK) gave an update on the activities of Department of Environment (DoE) and Environment Agency Northern Ireland. She explained that The Northern Ireland draft second cycle update to its River Basin Management Plans is currently continuing and public consultation closes at the end of August.

The Better Regulations Bill has been passed by Stormont, with the introduction of new guidance and a regulatory reform programme.

Environment Agency Northern Ireland has contributed to the Technical Advisory Group on UK Groundwater Hazardous Substances. A consultation will be prepared for Autumn 2015, so the papers are currently being worked on.

### Communities and Local Government

A representative from CLG was unable to attend the Land Forum meeting so Richard Boyle of Homes and Communities Agency (HCA) highlighted some areas that CLG are leading on and Maggie Charnley (MC) also provided an insight to their activities.

It was explained that CLG are going to be re-emphasising the development of brownfield land with 90% to have local development orders to be in place by 2020 with development occurring shortly afterwards. CLG are also looking at updating National Land Use Database (NLUD) with derelict sites 0.1 hectare in size. This is to be carried out before the end of 2015. It is looking at making it mandatory for local authorities to record derelict sites in their areas. The Conservative Government are honouring their manifesto of putting £1Billion into housing led regeneration. The government are continuing to release publically owned land for housing development to meet the target of 100,000 houses between 2010 - 2015. This will rise to 150,000 houses between 2015 - 2020. Central Government will continue to push local authorities to release sites with the National Audit Office providing more reporting. HCA will be the first choice for disposal of all government agency sites except NHS Trusts, Ministry of Defence and Forestry Commission.

### Defra Soil and Contaminated Land Team

Maggie Charnley (MC) updated the forum in relation to contaminated land and soil issues in Defra. MC confirmed that the timetable to address “*Land as a Resource*” has now slipped into 2016. This Autumn she was expecting the European Commission to issue a consultation on national soil protection measures, which will inform a gap analysis, and Commission thinking on what future EU action on soils is required to replace the withdrawn Soil Framework Directive. Next steps on soils is likely to be captured in a Commission communication on “*Land as a Resource*” in early 2016. It is not yet clear what this will contain, but there are likely to be stakeholder workshops hosted by the Commission in the autumn. MC thinks that there may be land take targets set by the EU, but again there is no detail at present on how this is to be measured and what indicators will be used. The EU is trying to move to using a common set of indicators because at present each country collects data in isolation. Defra is engaging on discussions relating to indicators because they can sometimes end up driving policy. There is a meeting in Copenhagen in October between Member States where more information will be presented and discussed.

MC was asked if there was any update on the Environment Liability Directive progress report that is due in September 2014? MC had not heard about its progress.

MC also explained that the COMMON FORUM’s views are being sought on soil matters but very few members have both contaminated land and soil protection portfolios. The COMMON FORUM is very contaminated land focused; therefore they are looking at setting up a soils group as well, so when they meet those that have responsibility for both portfolios can attend both meetings. The Commission will be establishing an expert group on soils which will have its first meeting in November.

### Environment Agency

Matthew Whitehead (MW) confirmed that the Environment Agency (EA) will be officially withdrawing the SGV Nickel report shortly. This is due to new evidence from the European Foods Standards Agency.

MW confirmed that the MCERTS Soils Testing Position Statement has been updated to include the acceptance of rapid measuring techniques. It was felt by industry that clarity was required and therefore the EA has reworded the protocol to provide this clarity.

The EA has fed into the consultation that HMRC were running on the Landfill Tax Communities Fund. HMRC are looking to improve guidance for A & B type projects.

The EA are continuing to work with the Joint Industry Working Group Asbestos in Soil, Construction and Demolition Materials, Definition of Waste: Development Industry Code of Practice (DoWCoP) v3 and the National Quality Mark for Land affected by Contamination that CL:AIRE is managing.

They are also working with Defra on reviewing guidance documents that are being rewritten and simplified as part of the SMARTER Regulations initiative.

The State of the Contaminated Land Report is continuing to be worked on for publication remembering that the raw data is already out there.

MW also confirmed that an update CLEA tool will be released soon to reflect the changes to land use types developed as part of the C4SL project. This will be freely available open access.

#### Defra – Smarter Environmental Regulation Review Team

Eleanor Whittle (EW) provided a presentation on the role of the Smarter Environmental Regulation Review Team and explained the purpose of the review. The presentation provided is downloadable by following the link

[http://www.claire.co.uk/index.php?option=com\\_content&view=article&id=475&Itemid=127](http://www.claire.co.uk/index.php?option=com_content&view=article&id=475&Itemid=127)

She explained that the .gov.uk website is now the single source for Defra network guidance. Until now there had been a lot of duplication in guidance which was covered across multiple websites and therefore it was making it very hard for industry to know what they needed to follow. The guidance on .gov.uk focuses on the user and what they need to know, to provide clear messages where government is uniquely positioned to. By focussing content carefully on the user, removing duplication, and removing good practice content, Defra committed to reducing the volume of guidance it provides by 80%.

Guidance that is no longer provided can still be accessed through the National Archives website.

EW confirmed that the search function of .gov.uk is being improved, and that the overall website is constantly being maintained and improved.

She confirmed that a summary of the Part 2A Statutory Guidance is currently being written for .gov.uk. Professional content designers are working with subject experts on this. The Environment Agency and Defra are ensuring that the content is factually correct.

The more technical content around risk assessments and CLR11 is being revised. Once this content has been finalised, it will be published on the .gov.uk website and the original guidance will be archived but still publically available via the National Archives. Only the content on .gov.uk is official government guidance.

If the Land Forum have any other further comments or concerns, the SERR team has a contact point of:

[guidance&data@defra.gsi.gov.uk](mailto:guidance&data@defra.gsi.gov.uk)

#### 5) Standards

NH confirmed that Mike Smith had sent her details about a number of standards that are currently in preparation. These were kindly prepared on a separate sheet that she shared with Land Forum members. A link to this document can be found here:

[http://www.claire.co.uk/index.php?option=com\\_content&view=article&id=475&Itemid=127](http://www.claire.co.uk/index.php?option=com_content&view=article&id=475&Itemid=127)

6) Appointment of new deputy chair

NH confirmed that Paul Sheehan will be taking up the chairmanship in the Autumn and Euan Hall will be recommended as the deputy chair. NH will liaise with Paul Sheehan about taking up the chairmanship as unfortunately he was unable to attend this meeting.

**ACTION: NH to liaise with Paul Sheehan regarding taking up his post of chair**

7) Discussion Topic: National Quality Mark Scheme for Land Affected by Contamination – consultation results

The draft National Quality Mark Scheme (NQMS) for Land Affected by Contamination – consultation results was presented.

A short report was presented summarising the results of the consultation. A link to the document is downloadable from the NQMS website:

[http://www.claire.co.uk/index.php?option=com\\_content&view=article&id=851&Itemid=335](http://www.claire.co.uk/index.php?option=com_content&view=article&id=851&Itemid=335)

It was confirmed that in excess of 150 people/organisations responded to the consultation which was considered very positive with many from Local Authorities and consultants. From these groups there was unanimous support for a scheme, however more detail was needed on how the scheme would be administered, and more detail was required about the role of the Suitably Qualified Person.

It was acknowledged that a Position Statement from the Environment Agency would assist the scheme but it was also acknowledged that a generic Position Statement for Local Authorities was not achievable. Each area would need to decide if it was to accept the NQMS).

The minimum requirements of SQP was also discussed at great length. The consultation document stated that the SQP needed to be chartered and have relevant experience and to demonstrate competency, the SQP must have been assessed by a robust process of examination and interview recognised by professional bodies..

There was concern that the scheme could exclude a lot of experienced people. It was explained that the purpose of setting the bar so high, is the SQP needed to set the highest possible standards for brownfield development. The disciplinary and audit process would need to be extremely robust and used as little as possible.

It was discussed that the scheme would exclude a lot of local authorities from becoming SQPs as professional memberships was not paid for by their employers as is typical in the private sector. It was felt that it was not as essential for local authorities to be SQPs, however it is a personal decision whether local authorities chose to become chartered as part of their own professional development.

It was agreed that charterships could come from a broad selection of professional bodies, however the experience was essential. The experience will need to be linked to the skills development framework.

It was agreed that more detail was needed on the specific training that would be needed for the role and requirements to become an SQP and the involvement of local authorities was essential. This would also need to be cross checked against the skills development framework.

RICS wondered whether the role of the SQP should be more strategic and therefore not preclude those that have successfully been providing advice in the brownfield sector but working within their area of expertise? It was felt that if people met the skills development framework capabilities that would be agreed for what an SQP required then individuals could have a more strategic role. However it was essential for that individual to have a certain level of core competencies otherwise they would not know when they were working outside of their area of expertise which is a fundamental principle of SQP role.

It was agreed that the SQP would not be an expert in all areas but could call on others more able in other specific areas such as risk assessment. This is why SoBRA are scoping up core competencies required to undertake risk assessment.

There was discussion on how SiLC and other organisations could administer such a scheme. It was believed that there is a difference between developing the National Quality Mark scheme and the technical role of administering and providing SQPs.

SiLC felt that they had the capability to provide the technical infrastructure for the development of an SQP scheme. Existing SiLCs could undertake a conversion course to meet the requirements to become SQPs if they wished as many of the core skills are very similar and the SiLC scheme already has the support of a number of professional institutions.

Finally there was a discussion about funding the scheme. It was agreed that such a scheme should be self financing but some seed funding to set the scheme up may be required. There was a suggestion that perhaps the Planning Advisory Service could be an avenue to explore for funding.

**ACTION: Professional Standards Group to investigate possible funding routes to provide seed funding to develop the scheme.**

It was also suggested that it was time to brief Peter Ellis of CLG about the NQMS as Ministers were supportive of the scheme and asked to be kept informed of progress.

**ACTION: NH & SL-B to prepare a paper to brief CLG about progress of the NQMS.**  
It was agreed that the Professional Standards Group now needs to put more detail together about how the NQMS will function and develop a rolling out programme.

**ACTION: Professional Standards Group to develop the NQMS further.**



8. Any Other Business:

NH made the Land Forum aware that The SCA Blue Book Method for the determination of asbestos in soil and associated materials has been amended and reviewed extensively by a working group led by Hazel Davidson of DETS. This document is now open for wider consultation for review and comment. This will be feeding into the Joint Industry Working Group on Asbestos in Soil, Construction and Demolition Materials. The document can be accessed by following the link below and comments should be forwarded to Hazel Davidson ([hazel.davidson@dets.co.uk](mailto:hazel.davidson@dets.co.uk)) by 31<sup>st</sup> July 2015.

[Download SCA Blue Book Method Consultation Draft>>>](#)

9. Date of next meeting

It is proposed that the next meeting will be held at the end of November 2015, date to be confirmed subject to room availability.

**ACTION: NH to circulate date of meeting.**