

Better Regulation/Self Regulation for the Brownfield Industry

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CONTAMINATED LAND: APPLICATIONS IN REAL ENVIRONMENTS

Background

- Government – want streamlined legislation to make business easier. eg modifying Planning Regime.
- Localism – move power from central Gov. Industry could take the lead ie Definition of Waste CoP, Defra Part 2A – reference to production of non-stat guidance by third parties.
- Three main regulations – Planning Regime, Contaminated Land Regime and Environmental Permitting together with Localism Agenda and desire to help stimulate the economy could provide the vehicle for Self Regulation.

NEVER BEEN A BETTER TIME FOR THE SECTOR TO DEMONSTRATE COMPETENCE AND CONFIDENCE TO THE REGULATOR FOR SELF REGULATION. IS THIS WANTED?

Background

- Self Regulation not a new idea – Better Regulations Task Force – principles published 2003.

1. Proportionate
2. Accountable
3. Consistent
4. Transparent
5. Targeted

Environment Agency & Local Government have embraced the concept by trying to minimise the burden of regulation on business. EA has demonstrated its commitment through continuing development of the Definition of Waste: Development Industry Code of Practice.

Background - Benefits

- Lower Regulatory Burden on business
- Lower costs for the public purse
- More commitment, pride and loyalty within the profession and industry
- More consistency of approach
- Industry could work better and without costly delays
- Knowledge and expertise of all parties can be used more effectively
- Flexibility and adaptability
- Enable regulators to focus on problems and target resources more effectively

Background - Benefits

It is important that the role of the regulator is not undermined and self regulation **MUST** ensure that it still:

- Acts in the public interest and not just private interest
- Meet statutory objectives
- Be able to crack down on unscrupulous practices and prosecute
- Perform effectively
- Have effective systems and processes of transparency and public accountability

Background - Industry

- If industry can demonstrate high standards and transparency then could self regulation be possible?
- Could self regulation be applicable and effective in:
 - Environmental Permitting
 - Technical Support to assist Planning Decisions
- Current informal use of consultants to support planners in technically complex assessments, but no framework for this

Environmental Permitting

- Can there be scope for streamlining permitting procedures or compliance activities if reliable, technically competent people (perhaps Licensed Professionals) are involved in applying for and running such processes to agreed standards.
- Confidence and track record to be built up and demonstrated with the regulator to allow lighter touch.

eg Definition of Waste – Qualified Person demonstrating professionalism and competence, more streamlined regulation = benefit to both industry and environment.

- With industry building its skillbase with agreed competencies, permitting process could become more streamlined and effective, flexible and adaptable = reducing cost burden.

Technical Support by Licensed Professionals

- Delays can occur when regulators may not have the resources or technical confidence in specialist areas to make decisions. These delays can cause large cost implications to industry and risk of generic and/or conservative decisions being made.
- Need to remove uncertainty in approval process – improve competitiveness and reduce costs and burden on industry
- Speed up decision making process – reduces costs to industry and community
- Licensed Professionals could be brought in to assist with planning applications. Such people would need sufficient industry standing, qualifications, training, experience and insurance. Perhaps they could sign off sites that have been assessed? Reduce regulatory and financial burdens.
- Speed up decisions, more consistency. Similar schemes exist in Australia, Belgium and USA.

Possible Next Steps

1. Is there an appetite for self regulation in all aspects of the brownfield industry?
2. What are the key elements required for such a system by industry and the regulator? How can this be developed and implemented?
3. What competencies will need to be demonstrated by industry to give comfort to the regulator for competent professionals not requiring regulatory sign off and proceed without challenge?
4. How can these competencies be proved/shown?
5. EA has challenged CL:AIRE to move forward and identify areas that “Better Regulation” could be sought. Gather evidence of true costs to industry for permitting/licenses.

DISCUSS