



Land Forum Meeting

4th December 2012 Meeting Notes
Location: HCA Office, Tottenham Court Road, London

FINAL

Present:

Ian Heasman, (<i>Chair</i>)	
Nicola Harries (<i>Secretariat</i>)	Contaminated Land: Applications In Real Environments (CL:AIRE)
Richard Boyle	Homes and Communities Agency (HCA)
Morwenna Carrington	Defra
Phil Crowcroft,	Specialist in Land Condition Register (SiLC)
Matt Whitehead	Environment Agency
Seamus Lefroy-Brooks	Association of Geotechnical Specialists (AGS)
Stephen Moreby	Gloucester City Council
Mike Quint	Society of Brownfield Risk Assessment (SoBRA)
Peter Witherington	Home Builders Federation
Frank Evans	The Soil and Groundwater Technology Association (SAGTA)
Euan Hall	Land Trust (LT)
Andrew Wiseman	UK Environmental Law Association (UKELA) and Environmental Protection UK (EPUK)
Robert Bailey	Welsh Government
Paul Sheehan	Environmental Industries Commission (EIC)

By telephone: Theresa Kearney, Department of Environment Northern Ireland (DoE NI);

Apologies:

Caroline Thornton, Scottish Environment Protection Agency (SEPA), Peter Johnson, UK Contractors Group, David Wilkes, Department for Communities and Local Government (DCLG)

Agenda

1. Welcome and Apologies
2. Introductions & Review of Previous Actions
3. Membership
4. Legislative / Regulatory Discussion Topics:
 - Part 2a Update: Background Levels
Category 4 Screening Levels
National Expert Panel
 - National Planning Policy Framework update including gap analysis with PPS23
5. Other Industry Initiatives update:
 - Asbestos in Soil

- CIRIA Membrane Verification
 - Definition of Waste: Development Industry Code of Practice
 - Sustainable Remediation Forum UK
6. Sustainable Land Use Subgroup
 7. Better Regulations Subgroup
 8. Future Direction of Land Forum
 9. Funding
 10. Summary of Meeting
 11. AOB & Date of Next Meeting

Meeting Notes

1) Welcome & Apologies

Apologies were given for David Wilkes (Department for Communities and Local Government); Caroline Thornton (Scottish Environment Protection Agency (SEPA) and Peter Johnson, (UK Contractors Group).

2) Introductions & Review of Previous Minutes

Ian Heasman (IH) welcomed everyone to the meeting, thanked Richard Boyle and HCA for hosting the meeting and initiated round the table introductions. IH welcomed Frank Evans (FE) who is now representing SAGTA. IH went through the previous meeting actions. The three outstanding actions from the last meeting were:

Updating the LGA Knowledge Hub with the Land Forum Minutes **Action: NH**

Simon Neil of the newly formed Natural Resources Wales was invited to discuss joining the Land Forum, but after an initial email exchange has gone quiet, IH to chase;

Action : IH

SoBRA to share information with the Land Forum regarding a recent survey they conducted to their members regarding their views on the 'Better Regulation' Agenda.

Action : David Hall, SoBRA

3) Membership

IH confirmed that a letter had been sent to Graham Jukes of CIEH asking if they would like to join the Land Forum. Up until now no response has been received. Phil Crowcroft (PC) offered to talk to Howard Price to see if he had seen the invitation.

Action : PC

It was felt that the Land Forum needs to be clear in its focus which would help other groups such as planners to understand how they can contribute. Perhaps different meetings could have a different focus.

It was agreed that more local authority representation is needed, Nicola Harries (NH) will revisit the list of local authority personnel who had indicated an interest before. It was agreed that four people are needed with 2 local authority personnel attending each meeting. It was agreed that ideally the representatives are from around the country.

Action: NH

Robert Bailey (RB) agreed to be a conduit for the Wales Contaminated Land Group.

It was agreed that it is also important to engage more with the planning community. CLG on this occasion sent their apologies but the Land Forum should engage more with the Planning Officers Society (POS) and Royal Town Planning Institute. NH to look into this as the POS was originally engaged with the Land Forum. It was agreed that sometimes the agenda is not planning focussed hence they do not wish to attend, but often it would be really useful to have planning represented.

Action: NH

4) Legislative / Regulatory Discussion Topics:

- Part 2a Update: Background Levels
Category 4 Screening Levels
National Expert Panel

Morwenna Carrington (MW) provided a Part 2A update.

Background Contaminant Concentrations

She confirmed that the Defra funded research project on normal background concentrations had been published in October. She confirmed that she recently presented a summary of the work at the EU Contaminated Land Common Forum meeting where it was well received and representatives from Finland and Belgium had undertaken similar work.

Steve Moreby (SM) shared with the forum that he was aware that some local authorities are looking to share information on background concentrations to develop more localised understanding of their regions. There was discussion whether the background concentrations research project data could be used in planning. In principle it was felt the information could be used in planning as long as it passes the same planning tests such as the development cannot be determined under Part 2A and safe and suitable for use.

To access the report, please follow the link:

<http://randd.defra.gov.uk/Default.aspx?Menu=Menu&Module=More&Location=None&Completed=0&ProjectID=17768>

Category 4 Screening Levels

The category 4 screening level (C4SL) project was on track with the work package 1 report submitted in draft to Defra and the steering group. The first stakeholder workshop had occurred. Work Package 2 was beginning in early December with the second stakeholder workshop scheduled for February 4th 2013. MC confirmed that the project was challenging but the steering group were happy with the progress that had occurred so far. MC confirmed that the steering group is made up of Defra, Food Standards Agency, Health Protection Agency, Environment Agency, DCLG, and HCA.

MC confirmed that she was aware that stakeholders were concerned with the limited consultation. The stakeholder workshops are trying to engage with a wide cross section of people which means that numbers are limited per group.

There was also concern regarding the stakeholder workshop questionnaire that the questions were very technical and hard to fill in. NH confirmed that feedback that they had received was positive regarding the structure of the day and that they had received a high percentage of returns to the questions. The questions were highly technical as they related specifically to the suggested modifications submitted to Defra in the draft report.

There was discussion on how the C4SLs relate to planning. MC said that she has discussed this point with DCLG but they do not see that there are any inconsistencies between the NPPF and Part 2A.

There was then discussion about the use of C4SLs in planning and whether local authorities would be accepting. The onus is on the developer to ensure that the site is safe and suitable for use and cannot fall under Part 2A. It is important that there are not conflicting views when the C4SLs get published and therefore it is important to build a good understanding of what the C4SLs represent. It is noted that the contaminated land sector is more precautionary than other sectors.

There was then discussion whether SGVs should be removed once the C4SLs are published. There was a strong consensus between those that expressed a view that it would be simpler to have one set of numbers and this would bring greater certainty, and that two sets of numbers would lead to significant confusion among non expert stakeholders, although it was recognised that there would be an initial suite of C4SLs for only 6 substances.

It was agreed that provided Land Forum members were supportive, upon launch of the C4SL report the Land Forum should make a statement welcoming the development of C4SLs.

National Expert Panel

MC confirmed that the first meeting of the National Expert Panel is to occur on Friday 7th December to identify the terms of reference and decide the best way of working. The secretariat function will also be discussed. The panel is independent of Defra so will develop their own terms of reference.

MC was aware of discussions on jisc mail about appointment of individuals however she confirmed that Ministers had been briefed and direct appointment was accepted rather than open appointment. She agreed that some organisations were asked to nominate an individual. There was deliberately a third of the panel from local authorities to hopefully provide confidence to other local authorities.

Andrew Wiseman (AW)- new chair of the expert panel reviewed the discussion points on jisc mail and confirmed that there were some good points raised, particularly regarding potential skills missing. This will be discussed at the first meeting of the expert panel.

Other issues

MC also made the Land Forum aware of references to land in the 7th European Environmental Action Programme. Paragraph 22 talks of the 'degradation, fragmentation and unsustainable use of land in the EU'. Paragraph 23 urges Member States to reflect on The Rio+20 Summit 'land degradation neutral world' and to address soil quality issues within a binding legal framework. It also states that EU targets will be for sustainable land use and soil.

http://ec.europa.eu/environment/newprg/pdf/7EAP_Proposal/en.pdf

It was noted that the Soil Framework is still dormant and MC understands that the Irish Presidency (Jan –June 2013) has no formal plans to move it forward. Therefore the next key time is next year when the German Elections occur, and the possibility that this might precipitate a policy change which would break the blocking minority.

- National Planning Policy Framework update including gap analysis with PPS23

PW led a discussion on the NPPF and the potential gap in guidance that directly links planning and redevelopment of potentially contaminated land that PPS23 previously occupied. There was some mixed opinion as to whether a PPS23 replacement was indeed needed, but a consensus grew that without it there could be significant inconsistency in decision making and that a replacement would be helpful to local authorities, consultancies and developers. It was understood by the Land Forum that CIEH with RTPI were updating PPS23 and although it was believed that work on the document had advanced nobody was aware as to the current status of the document. It was agreed that it is important to ascertain what is contained in the CIEH/RTPI document as this may be providing clarification on the issues that have been identified.

It was agreed that if anything is developed by industry that it must be as short and succinct as possible, and flag up existing guidance for the detail.

ACTION: NH to contact CIEH to see if the Land Forum is able to have sight of the re-draft of PPS23, and if so would CIEH welcome comments?

There was one suggestion that developing on potentially contaminated land is an important area and therefore should be provided with its own titled supplementary CLG guidance, such as minerals planning and flooding currently do. However there are many other areas equally deserving and given the current deregulatory climate it was thought unlikely that that would be feasible.

PW highlighted the areas that the NPPF does not currently cover and where it is felt supplementary guidance may be required. This included relationship between the planning regime and Part 2A of the Environmental Protection Act 1990; radiological contamination; clarification of responsibilities; preparation and assessment of applications; scope of site investigation; competencies; groundwater quality and sustainable development.

Theresa Kearney (TK) was asked how Northern Ireland provides advice to developers. TK explained at present they do not have guidance for developing on land that is potentially contaminated, however it is felt that it is needed so they are currently developing PPS23 Northern Ireland. It is to help developers realise what responsibilities they have and to help them design out risks and to take into consideration sustainability. It is hoped that PPS23 (NI) will be available Summer 2013. TK would be happy to share.

5) Other Industry Initiatives update:

• Asbestos in Soil

NH confirmed that there are two initiatives progressing in Asbestos in Soil. CIRIA are planning to publish a document "Guide to Managing and Understanding the Risks of Soil in Brownfield Sites". Also the Joint Industry Working Group (JIWG) for Asbestos in Soil, Made Ground and Construction Waste are producing an industry code of practice working closely with the Environment Agency and Health and Safety Executive. The two projects are endeavouring to work closely together, with the CIRIA document identifying some key issues that it cannot address and that the JIWG may look to address. The CIRIA document was due out Autumn 2012 but is slightly behind programme. Therefore the programme for the JIWG has slipped as it is industry's wish that the two projects do not contradict but complement. It is believed that the full draft CIRIA document will be issued internally to the Project Steering Group week beginning 11/12/12 for review ahead

of the next project steering meeting mid January 2013, and is to be published March 2013.

From members who sit on the steering group there were concerns voiced with the parts of the draft CIRIA document that they had seen with the level of conservatism. Therefore people are keen to see how these concerns have been addressed.

The JIWG Asbestos CoP recently asked for expressions of interest to help author the document and they had received in excess of 50 responses. These are currently being reviewed and people will be selected depending on their areas of expertise to work together to prevent bias. To fit in with the CIRIA guide it is anticipated that draft contracts for authors will be let at the end of March 2013.

- **CIRIA Membrane Verification**

It is understood that the CIRIA Membrane Verification document is aiming to be a useful practical approach to dealing with membranes on site. It is moving towards final draft and is aiming to be published in Summer 2013.

- **CIRIA VOC Remediation Guide**

It was confirmed that CIRIA VOC Remediation Guide is soon to be published.

- **Definition of Waste: Development Industry Code of Practice**

NH confirmed that the Definition of Waste Steering Group met recently to discuss ideas for a version 3. This is currently just a scoping study and when appropriate will be consulted on. The further development is all subject to securing further funding.

It was noted for the record that FE, EH and AW acknowledged their role as CL:AIRE trustees, in terms of conflicts of interest.

It was explained to the Land Forum that currently CL:AIRE is subsidising the Definition of Waste : Development Industry Code of Practice (DoW) through administering queries and questions from the general industry. Qualified Person fee does not cover the time currently being spent on administering queries. The difficulty is CL:AIRE cannot continue to do this. The DoW steering group are keen to develop further aspects to ensure the system is as robust as possible and becomes self financing.

There was then discussion how best could the DoW become self financing. It was agreed that Qualified Person rates could be increased and NH confirmed that this was also discussed at the steering group meeting. It was also suggested that a fee should be paid with every declaration submitted. It was suggested that perhaps all declarations are submitted to CL:AIRE first instead of the Environment Agency this would help finance the scheme especially as it is an industry led scheme. The Steering Group and Environment Agency are looking into practical solutions.

However it was also noted that the DoW currently captures a small fraction of total soil movements, and it would be better to increase the proportion of the 'market' that is engaging with the DoW, rather than penalise those organisations who are already engaging.

It was agreed that it was essential to support the DoW Code of Practice as it is a flagship example of self regulation and therefore industry need to support the principle.

It was agreed that the Land Forum should write a letter of support for the ongoing development of the Definition of Waste CoP to ensure that it becomes self financing.

ACTION: Land Forum to write a letter of support for the Definition of Waste Code of Practice to become self financing.

- **Sustainable Remediation Forum UK (www.claire.co.uk/surfuk)**

NH confirmed that phase 3 of the project is underway which consists of collecting case studies that have used the SuRF-UK framework, to develop generic best management practice based on the 15 published indicator categories and to develop a guide and sustainability assessor pack for a Tier 1 qualitative appraisal. A workshop is also planned in early March to disseminate the progress and get feedback from industry.

NH explained that she had recently returned from a conference in Vienna on Sustainable Remediation and it was encouraging how the UK is world leading in how we are embracing sustainability. A number of countries such as Australia, Canada and Italy are using the SuRF-UK framework as a template and adapting for their regulatory conditions. The success of SuRF-UK is very much down to the regulatory buy in.

NH also explained that the chairs of the Global SuRF initiatives now meet on a quarterly basis to share ideas. Notes of the meetings can now be found at www.claire.co.uk/surfinternational .

There was then discussion on how people are measuring the social aspects in sustainability appraisal as this seems very difficult and there is not much data around. Euan Hall (EH) explained that he was aware of some interesting research coming out of Durham University and agreed to forward.

ACTION: EH to circulate information on measuring social costs relating to brownfield by Durham University

6) Sustainable Land Use Sub Group

IH led the discussion about what the Sustainable Land Use sub group is looking to achieve. There has been one teleconference, and feedback to the previous meeting, which identified various key themes. However sustainable land use is such a big topic, in common with much sustainability work, it is not amenable to simple resolution. It can be likened to a journey without a defined destination but with milestones along the way. It is perhaps best solved in stages. Initial areas for focus might include resource efficiency and brownfield first. It was also agreed that a good starting point would be the NPPF with its presumption in favour of sustainable development.

Robert Bailey (RB) confirmed that Welsh Government is doing a lot of work through consultation in this area nationally and he will provide links.

ACTION: RB to provide links to the work that the Welsh Government are doing in relation to Sustainable Development.

It was agreed that workshop format might be a good way to approach the subject, although it was noted that the sub group does not have a dedicated secretariat which might make organisation a challenge.

ACTION: IH to think about the next Land Forum as a workshop on different aspects of sustainable land use.

7) Better Regulation Sub Group

While the Better Regulation Sub Group has identified some problems and potential solutions it remains unclear how to move the agenda forward. There is consensus that there are consistency and quality of work issues across both local authorities and private sector consultancies. Local authority checklists, pre-tender independent reviews and planning service agreements could all help raise standards. However at present there is no clear way to progress, and no funding or other resources to support progression. The Better Regulation Subgroup can therefore be considered to be on hold.

8) Future Direction of the Land Forum

Land Forum Members see value in the discussions, information dissemination and consultation responses completed to date. The Land Forum could also play a more strategic role in land use change matters including planning and sustainable land use.

Open Action: Comments and suggestions on the purpose and future direction of the Land Forum.

9) Funding

Currently the Land Forum secretariat function is not funded so CL:AIRE are performing this function free of charge. MC confirmed that it is an industry forum and therefore it is not possible for Defra to fund. If industry values the Land Forum, then they need to find a mechanism to fund it.

It was suggested that the secretariat role could be rotated amongst its members. The difficulty with this is that continuity would be lost.

It was agreed to come up with an options paper to assist in decision making:

1. Membership Funding
2. In kind secretariat
3. Hybrid Approach

ACTION: NH prepare a paper on funding options for the next meeting

10) Summary of Meeting

IH summarised each agenda item and the associated actions.

11) AOB & Date of Next Meeting

ACTION: NH to circulate dates for early March 2013 for the next Land Forum meeting. AW confirmed that he has rooms available.