

# Land Forum Meeting

27<sup>th</sup> January 2015

Meeting Notes

Location: WSP Offices, WSP House, Chancery Lane, London WC2A 1AF

11.00am – 4.00pm



## FINAL

### Present:

Seamus Lefroy Brooks ( <i>Chair</i> )	Contaminated Land: Applications In Real Environments (CL:AIRE)
Nicola Harries ( <i>Secretariat</i> )	Environmental Industries Commission (EIC)
Paul Sheehan	Defra
Maggie Charnley	Environment Agency
Matthew Whitehead	Environment Agency
Trevor Howard	The Soil and Groundwater Technology Association (SAGTA)
Frank Evans	SoBRA
Chris Taylor	Specialist in Land Condition Register (SiLC)
Phil Crowcroft	Homes and Communities Agency (HCA)
Richard Boyle	UKELA & EP UK
Andrew Wiseman	Mole Valley Council
Rob Ivens	Lancaster Council
Mark Edwards	

### By telephone:

Matthew Llewellyn	Natural Resources Wales
Elaine Wort	Natural Resources Wales
Richard Clark	Welsh Government
Theresa Kearney	Environment Agency, Northern Ireland
Caroline Thornton	Scottish Environment Protection Agency (SEPA)
Rachael Davies	Welsh Contaminated Land Working Group

### Apologies:

Peter Witherington	Home Builders Federation (HBF)
Max Rathmell	Leeds City Council
Julia Thrift	Town and Country Planning Association (TCPA)
Howard Price	Chartered Institute of Environmental Health (CIEH)
Euan Hall	Land Trust (LT)
Lisa Hathway	National House Building Council (NHBC)
David Middleton	Defra
Tim Elliott	Royal Institute of Chartered Surveyors (RICS)
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
Julia Reynolds	Leeds City Council
Simon Firth	SoBRA

## Agenda

1. Welcome and Apologies
2. Introductions of represented organisations
3. Review of previous minutes & actions
4. Update from Government Departments and Environment Agencies
  - Defra Soil and Contaminated Land Team
  - CLG
  - Environment Agency
  - Welsh Government & Natural Resources Wales (by phone)
  - Scottish Government & Scottish Environment Protection Agency (by phone)
  - Department of Environment Northern Ireland & Environment Agency (by phone)
5. Standards update – what's new
6. Rotation of chair & appointment of new deputy chair

### LUNCH

7. Discussion Topics
  - National Quality Mark Scheme for Land Affected by Contamination (paper attached)
  - Development of further C4SLs (papers attached)
  - Landfill Tax exemption on Part 2A residential sites (paper attached)
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 WSP for hosting the meeting. Paul Sheehan provided the housekeeping and health and safety briefing.

### 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 have 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 with the support of Julia Thrift (JT) of TCPA. NH to provide contact to RICS.*

***ACTION: EH and JT to move forward the concept of Land Forum debating brownfield v greenfield. NH to provide RICS contact.***

### ***POST MEETING NOTE:***

***EH has met representatives from RICS and will be working up a draft paper for discussion at the next Land Forum meeting.***

***ACTION: All to discuss with their industry groups/organisations what top three issues that need resolution bearing in mind it does not need to focus on land contamination as the Land Forum has very wide terms of reference.***

## 4) Update from Government Departments and Environment Agencies

### Defra Soil and Contaminated Land Team

Maggie Charnley (MC) updated the forum in relation to contaminated land issues in Defra. She confirmed that following David Middleton’s visit to China last November, the Chinese delegation are on their return visit being organised by Lancaster and Cranfield Universities. The purpose of the visit is to look at how China and the UK can work strategically together particularly relating to the land contamination issues.

MC also confirmed that she would be visiting Brussels to meet the new European Commissions soil team. At this stage it is not understood how contaminated land will feature however it is understood that land as a resource will feature heavily especially as 2015 is the International Year of Soil. Some work may be carried out looking at regulatory gaps – land which is not covered by regulation at present, for example golf courses, equestrian uses, back gardens where no soil protection rules apply in some MS.

Defra supported a Human Biomonitoring Workshop recently organised by Mike Quint of EH Sciences Ltd. The meeting explored the ethical issues around human biomonitoring in relation to CLEA outputs. The final report is with Defra to sign off so should be available shortly. It is not yet clear if or what further work will be carried out.

Defra published the Erratum document for the Category 4 Screening Level Research Report in early December 2014, it can be found

<http://randd.defra.gov.uk/Default.aspx?Menu=Menu&Module=More&Location=None&Completed=0&ProjectID=18341>

State of Contaminated Land Report is almost completed and will be published by the end of March 2015 (before Purdah).

### CLG

MC provided an update on behalf of CLG. She informed the Land Forum that CLG recently provided an update on their Brownfield Planning Policy. It says:

*“The National Planning Policy Framework makes clear that in drawing up Local Plans, local planning authorities should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value.*

*Much brownfield land is subject to constraint (e.g. in the Green Belt), already in active use, or in areas where development would be unviable. Not all brownfield land is therefore suitable for new development.”*

MC also reported on the CLG Select Committee Report on the National Planning Policy Framework. The Select Committee recommended *“that funding should be made available to fund the remediation of brownfield land and that the consultation on land availability data should be expanded to cover a set of data that can be used to monitor the overall effectiveness of the National Planning Policy Framework.”*

CLG will be responding to the CLG Select Committee report on the National Planning Policy Framework, including their recommendations on brownfield land, in February.

### Environment Agency

Trevor Howard (TH) confirmed that the Environment Agency (EA) has now completed its national reorganisation. TH has shared the new structure and this is attached.

EA continue to work on the State of Contaminated Land in England report based on the data captured by Cranfield University up to the end of 2013. The report will be completed and published by the end of March 2015.

TH explained that the government “Smarter Guidance” initiative consultation relating to the theme “Development” has now closed in December 2014. Defra are now reviewing the responses and TH understands no firm decisions have been made as to which legacy documents will remain. It is understood that a number of technical documents are still considered of value to industry but it may not be seen as appropriate for .gov.uk to house them. Where a number of documents identified as part of the consultation as “amber” requiring updating, a team of specialist will be brought in to reduce the text length by 80% still keeping the documents factual correctness. It is understood that the Contaminated Land Statutory Guidance may also fall under the “Smarter Guidance”.

### Welsh Government

Richard Clark (RC) confirmed that the Welsh Government published the erratum for the Category 4 Screening Level project. Details can be found at: <http://wales.gov.uk/topics/environmentcountryside/epq/contaminatedland/screening-levels-contaminated-land-assessment-/?lang=en>

The new advisory group that was mentioned at the last Land Forum meeting has recently met.

### Natural Resources Wales

Matthew Llewellyn (ML) confirmed that Natural Resources Wales (NRW) has now finalised all IT (including phones) standardisation between the different organisations that were formed to make up NRW. He advised that all phone numbers have been changed and to use the website to contact NRW staff.

The State of Contaminated Land in Wales report is nearing completion and they too are looking to publish by March 31<sup>st</sup> 2015.

NRW are looking to revise the process to obtain mobile plant deployment forms as currently NRW are struggling to meet the 35 day turnaround.

### Scottish Government & Scottish Environment Protection Agency

Caroline Thornton (CT) provided an update on behalf of Scottish Government (SG) and SEPA. CT explained that SG are still working on the guidance to support the Regulatory Reform (Scotland) Act 2014 section 45 contaminated land and special sites. SG is aiming to publish this in the first half of 2015.

SG are continuing with their human health risk assessment project where they propose to provide additional guidance tools for local authorities to determine Significant Possibility of Significant Harm (SPOSH). The final draft report is currently being peer reviewed. After the peer review has been undertaken, further dialogue with LAs will be undertaken and the next steps identified.

SEPA are currently working on their draft second River Basin Management Plan which will consider land contamination. They anticipate publishing this in early April 2015.

SEPA will be presenting at the forthcoming brownfield briefing conference on 24<sup>th</sup> February 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 Assembly has announced the reduction of government departments from 12 to 9 by May 2016. The Department of Environment that covered the environmental function will be merged with other departments to form a new department called, Department of Agriculture and Rural Development.

Environment Agency Northern Ireland CEO is leaving to join SEPA in April 2015.

The transfer of planning function from DoE will occur on 1 April 2015 along with the reduction of 26 local councils to 11. The Environment Agency is also looking at streamlining its statutory role as consultee in land quality issues to improve efficiencies and improve standards.

TK explained that there is no change on bringing Part 3 (NI equivalent to Part 2A) into force. The provisions for Part 3 are on the statute books but due to the local government reform programme coming into effect in April 2015 there is no firm timetable to bring the contaminated land regime into effect. In the meantime, contaminated sites are being mostly remediated through the planning regime.

The Northern Ireland draft second cycle update to its River Basin Management Plans is continuing. Public consultation is expected later in 2015.

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\\_phocadownload&view=file&id=465&Itemid=230](http://www.claire.co.uk/index.php?option=com_phocadownload&view=file&id=465&Itemid=230)

6) Rotation of chair & appointment of new deputy chair

NH raised that the chairmanship is due for rotation as Seamus Lefroy-Brooks has completed his year. Due to his intimate involvement of the National Quality Mark Scheme it was agreed that Seamus should see the process through, so will remain chair until the Autumn 2015. It was also discussed that the chairmanship should extend to a 2 year position particularly as only 3 meetings a year occur now. This was unanimously agreed.

NH also explained that Paul Sheehan is the deputy chair and has agreed to delay taking on the role.

As the deputy chair will be taking the chairs role, there will be the requirement for Land Forum members to nominate a new deputy chair. NH will ask for nominations.

**ACTION: ALL to consider Deputy Chair nominations from their membership organisations**

7) Discussion Topic – Landfill Tax exemption on Part 2A residential sites

Wakefield Council submitted a briefing paper ([http://www.claire.co.uk/index.php?option=com\\_phocadownload&view=file&id=466&Itemid=230](http://www.claire.co.uk/index.php?option=com_phocadownload&view=file&id=466&Itemid=230)) that they had prepared asking for Land Forum members' views on how Wakefield should move forward to promote, seek approval and direction for the lobbying of central government for a change in legislation on landfill tax when Local Authorities are remediating contaminated land where no polluter can be found.

The Land Forum discussed the paper presented. They felt that the reference to the Stirling case was not a good idea as there were inaccuracies in that case and the outcome was not supportive of the Wakefield proposal. They felt that the argument presented with respect to remediation of residential gardens could only be undertaken by excavation and disposal at a landfill was also problematic. The cost of landfill taxes was not correct. The costs quoted also appeared to include excavation and transportation costs and would not apply if treated using the Definition of Waste: Development Industry Code of Practice or treated onsite.

The Land Forum members did agree that it seemed odd that public bodies should pay landfill tax but there are many examples of this such as local government paying VAT etc. There was then discussion about whether Local Councils could access monies through the Landfill Communities Fund as contaminated land remediation is permitted? It was felt that this is a very difficult route as contaminated land is not a priority area for landfill operators who administer the funds. However, change in rules of the Fund might be easier to effect than changes to Landfill Tax legislation.

It was agreed that Land Forum members would provide feedback to the Wakefield Council Paper to help it provide a stronger case but due to the broad membership of the Land Forum they would be unable to lobby central government.

The Land Forum did understand the concerns of Wakefield Council and were sympathetic to the general cause. They felt that perhaps there could be an opportunity to look at other potential funding routes. This could potentially be a discussion point at a subsequent Land Forum meeting to support Local Authorities. It was agreed that this is a Her Majesty's Treasury (HMT) issue as they collect Landfill tax, but with the General Election approaching may not be a good time to discuss with them

It was thought that HMT may not be sympathetic as Landfill Tax has successfully diverted waste from landfill including contaminated soil as onsite treatments have become very efficient.

**ACTION: ALL to provide feedback to Wakefield Council's Paper for NH to collate and provide feedback.**

8) Development of further C4SLs

Richard Boyle on behalf of SAGTA made the Land Forum aware that they are providing the seed funding to support the development of 50 + C4SLs that will be freely available to all following the agreed C4SL methodology that had been agreed by Defra, CLG, WG . RB confirmed that all Land Forum members were invited to join the steering group and to provide representatives. SAGTA had put a call out to industry to ask for exposure modellers and toxicologists to work collaboratively together. Further details were available at <http://www.sagta.org.uk/Activities.html>. Currently he had received 27 positive responses. The first steering group meeting is scheduled on 2/2/15 to agree the terms of reference and how the project will progress.

It was discussed whether the Land Forum should consider endorsing/supporting the work publically.

It appeared that there was broad support from the Land Forum for the SAGTA led initiative to develop more C4SLs, however it was acknowledged that not all groups represented on the Land Forum were present and that some members represented multiple organisations so it would be difficult to get consensus and their full support. It was acknowledged by RB that all sectors are represented on the C4SL steering group.

It was thought that perhaps the Land Forum could link to other briefing notes provided on using the C4SLs to help promote their use. One such briefing has been produced by YAHPAC.

**ACTION: NH to look into what information is available to support the use of C4SLs and provide links on the Land Forum website.**

9) Raising Standards: Industry protocol for Land Affected by Contamination – proposed scheme.

The draft National Quality Mark scheme for Land Affected by Contamination was presented by Seamus Lefroy-Brooks (SL-B) and discussed.

Planning Officer Society (POS) although were unable to attend the meeting had provided initial feedback to the scheme. POS would be happy to help promote the scheme amongst their members, but suggested the consultation should be whilst in Purdah. POS are also looking to invite a Land Forum member to promote the scheme to the Development Management Group.

It was felt that the scheme would be received positively by planners to help support the quality of information provided on land contamination issues especially as it covers the whole lifecycle of the site (including verification).

It was agreed that dispute resolution needs to be robust. Could there be a recording mechanism against SQPs if disputes had been raised?

The attractiveness of such a scheme is that the LA could have confidence that a quality product has been produced.

Was it the belief that only SILCs can be SQPs? The eligibility criteria stipulate what SQPs need to do and it was felt that currently SiLCs are best placed to undertake this role with some training for the role of the SQP. However the criteria are broad and do not preclude other bodies setting up training and competence assessment arms to meet the SQP criteria.

Who assesses the competence of an SQP? The National Skills Framework identifies the skills that are needed.

Who is going to pay for the setting up of the scheme? Individuals who feel that becoming an SQP would provide themselves with an advantage would need to pay for the additional training. However, there is likely to be a need for funding to cover the initial set up of the administration of the scheme.

It was felt that the skills framework should be made more available so people understand the level of competence required to be a SQP. Could the Skills Framework be made more readily available? It was confirmed that it is currently on the SiLC website, but could easily be moved if it was felt appropriate.

Who would run the SQP process? This is to be decided but SILC felt that they would run the SILC and SQP register as they would run in parallel as not all SILCs may wish to be SQPs. SILCs would not automatically become SQPs but would have grandfather rights.

Would the SQP be completely independent of the project? It was felt that this would not be appropriate. They should perhaps have an over viewing role/project executive role but not intimately involved. However, the SQP would need to be able to judge the capability of the project team.

The SQP would be personally signing off so would be responsible to ensure the quality of the product is meeting the NQM guidelines.

It was acknowledged that individual councils all have their own guidelines, therefore the SQP should also sign off that they have adhered to the local guidelines.

It is felt that the Position Statements from Environment Agencies that they accept the NQM will be crucial along with a statement from LPAs. Could the Local Government Association (LGA) provide a steer to LPAs? It was agreed that the LGA were on the list of stakeholders to meet and discuss the scheme with.

It was agreed that one further week would be provided to Land Forum members to comment on the scheme. These comments would be taken on board and a final document would be provided with questions for an open consultation electronically.

It is anticipated that consultation would be undertaken during Purdah which is from the end of March to mid May 2015.



**ACTION: All to provide any further comments on the draft document by 4<sup>th</sup> February 2015.**

7. Any Other Business:

Richard Boyle (RB) brought to the attention of the Land Forum a recent article written in Brownfield Briefing about the proposal from George Osborne to remove planning decisions from Local Planning Authorities on brownfield sites: <http://www.brownfieldbriefing.com/news/osborne-plans-brownfield-planning-curbs>

Also RB mentioned the recent press release announcing the areas shortlisted to become the first flagship housing zones in England. Further information is available by following the link: <https://www.gov.uk/government/news/areas-shortlisted-to-become-englands-first-housing-zones>

RB confirmed that HCA will be re-publishing an updated Contamination and Dereliction Remediation Costs Best Practice Note 27 in February 2015.

**POST MEETING NOTE**

RB also wished to make the Land Forum aware of two further items that he felt would be of interest.

Reuse of Brownfield Land for Housing Consultation

A new consultation on mechanisms for the promotion of the reuse of brownfield land for housing alongside gaining better data on brownfield land suitable for housing was published on 28 January 2015. This coincided with an announcement for £5m of funding to support LAs in bringing forward Local Development Orders on brownfield land (to complement the Housing Zones offer).

<https://www.gov.uk/government/consultations/building-more-homes-on-brownfield-land>

<https://www.gov.uk/government/publications/local-development-orders-for-housing-development-on-brownfield-land-invitation-to-bid>

CDM Regulations 2015

subject to Parliamentary approval, new Construction (Design and Management) Regulations 2015 (CDM 2015) will come into force on 6 April 2015. There is a supporting Approved Code of Practice (ACOP) and guidance to be published. The key changes to the CDM Regulations include the following:

- Simplification of the Regulations to incorporate a structure that follows the project process.
- Simplification of the Approved Code of Practice (ACoP).
- Abolishing the role of "CDM Co-ordinator" and introducing the new role of "Principal Designer".
- Abolishing the domestic client exemption.
- Raising the project notification threshold.
- Requiring written construction phase plans for all construction projects.

Some of the changes are significant such as the removal of the CDM Coordinator role and the regulations appear to imply a greater monitoring role for the client to ensure that arrangements for health and safety are maintained and reviewed throughout the duration of the project including the construction phase.

There will be a transitional period that will run for six months from 6 April 2015 until 6 October 2015 to let projects under the old regime finish off or to allow change over.

More details at <http://www.hse.gov.uk/pubns/books/1153.htm>

No further items were raised the meeting was brought to a close.

8. Date of next meeting

It is proposed that the next meeting will be held at the end of June 2015, date to be confirmed subject to room availability with the next Professional Standards meeting to be held at the beginning of June 2015.

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