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## **Meeting of the Executive Member for Neighbourhood Services and Advisory Panel**

5<sup>th</sup> June 2008

Report of the Director of Neighbourhood Services

### **Award of DEFRA Grant Funding for the Investigation of Potentially Contaminated Land**

#### **Summary**

1. The purpose of this report is to update the executive member and advisory panel of the successful outcome of a recent Contaminated Land Capital Grant Programme (CLCGP) application made to the Department for Environment, Food and Rural Affairs (DEFRA).
2. In 2007, the council's environmental protection unit (EPU), as part of a programmed series of risk based inspections, conducted a preliminary contaminated land investigation at a number of former landfill sites located off Fulford Cross. An application was made to DEFRA for grant funding to support a more detailed investigation of this area. In March 2008, DEFRA replied to say they approved the requested funding (£38,634).
3. A decision is requested on whether to accept the grant offered and conduct the detailed investigation. Members have previously approved acceptance of similar grant funding for other contaminated land investigations.
4. The report also provides a general update on progress being made on the council's contaminated land strategy.

#### **Background**

5. Part IIA of the Environmental Protection Act 1990 ("Part IIA") became law in April 2000. This legislation placed a statutory duty on local authorities to inspect their areas for the purpose of identifying contaminated land.
6. The government supports local authorities capital expenditure on contaminated land investigations through a direct grant scheme, known as the Contaminated Land Capital Grants Programme (CLCGP). In previous years, the council has made successful bids to DEFRA to fund the detailed investigation of a number of council owned former landfill sites (Nun Ings, Tang Hall, Huntington Road and Water End).

7. In line with the council's contaminated land strategy which contains a priority based inspection programme, EPU conducted a preliminary investigation at a site off Fulford Cross (Fishergate ward) in 2007. Based upon historic maps and other information it is believed that the site included as many as five individual landfill sites. Land contamination may therefore be present due to these previous landfill activities. The majority of the site to be investigated is owned by the council.
8. The results of the preliminary investigation showed the presence of landfill gas in the ground. Landfill gas is a mixture of oxygen, carbon dioxide and methane (as well as other substances at "trace" concentrations). In some circumstances, carbon dioxide can have asphyxiant properties if allowed to accumulate (for instance in confined spaces). Methane has explosive properties at certain concentrations.
9. Explosive concentrations of methane were not detected at the site. However, concentrations of carbon dioxide were such that, whilst not at the levels to warrant immediate concern, would benefit from long-term monitoring to allow future risks to be assessed.
10. In November 2007, as a result of the findings of the preliminary investigation, an application was made to DEFRA for grant funding to support a more detailed investigation. In March 2008, DEFRA confirmed that the requested CLCGP funding of £38,634 had been approved.

### **Consultation**

11. EPU consulted the Environment Agency and the City Strategy Directorate with regard to the proposed contaminated land investigation at the site.

### **Options**

12. Two options are available to members:
  - a) Accept the grant funding offered and undertake the detailed investigation.
  - or
  - b) Do not accept the grant funding offered.

### **Analysis**

13. No funding is currently available "in-house" to conduct detailed site investigations. Therefore, the only funding available is in the form of grants from DEFRA.
14. Acceptance of the grant offered by DEFRA will enable a detailed investigation to be undertaken within the 2008/9 financial year, allowing the long-term monitoring of landfill gas concentrations to be commenced. Monitoring would initially be conducted at monthly intervals for 12 months by officers from EPU. The costs of this monitoring is included in the funding offered by DEFRA.

Samples of soil and groundwater would also be taken and analysed for contaminants.

15. A risk assessment would then be undertaken, to review the sampling results and determine whether the site is causing (or has the potential to cause) significant harm to human health or the environment.
16. If the site is found to be causing (or has the potential to cause) significant harm, the council would become largely responsible for any required clean-up (“remediation”), as it was the main landfill operator at the site. DEFRA currently has funding available to local authorities for remediation in some circumstances, but long-term funding is subject to review by government.
17. It is possible, therefore, that the council could ultimately have financial liability for any required remediation which DEFRA may (or may not) support. At this stage it is not possible to estimate the costs for any such remediation.
18. Failure to accept the grant would prevent the council from conducting a detailed investigation of the site. This would mean that the council will not be carrying out its statutory obligations under Part IIA. Also, as the extent of contamination at the site would remain unknown, people and the environment may potentially be at risk.

## **Contaminated Land Update**

19. In 2001, EPU published the council’s contaminated land strategy as part of the council’s duty under Part IIA. The legislation requires local authorities to implement a process of identification, assessment and, if necessary, remediation of contaminated land in their area. The contaminated land strategy was presented to the Executive Member for Environment and Sustainability and Advisory Panel in July 2001.
20. In 2005, an update and review document was published to describe the council’s progress in carrying out its obligations under Part IIA. This document was presented to the Executive Member for Environment and Sustainability and Advisory Panel in February 2005, and approved.
21. To date, EPU has researched past industrial activities within York (dating back to 1800) and has plotted the location of these onto a geographical information system (GIS). EPU are now assessing these sites, in order to determine whether contaminated land is present.
22. Former landfill sites were categorised as the highest priority sites in the contaminated land strategy, therefore EPU have initially focused their investigations on former landfill sites.
23. EPU will soon begin a second round of prioritisation, incorporating the use of specialised mapping software. The software will consider the locations of past industrial activities, industry types, periods of operation, current site uses and

environmental factors such as hydrology and geology. It will then re-score the remaining sites in priority order, so the investigations can be focussed on the highest risk sites.

## **Corporate Priorities**

24. The investigation of potentially contaminated land links to the corporate priorities to “reduce the environmental impact of council activities and encourage, empower and promote others to do the same” and to “improve the health and lifestyles of the people who live in York, in particular among groups whose levels of health are the poorest.”

## **Implications**

### **Financial**

25. The amount of grant offered by DEFRA (£38,634) will cover the cost of the council employing specialist subcontractors, as well as internal costs for matters such as internal project management by officers and the associated costs for on-going monitoring.
26. If the detailed investigation shows that the site is causing (or has the potential to cause) significant harm to human health or the environment, the council could ultimately have financial liability for any required remediation which DEFRA may (or may not) support. At this stage it is not possible to estimate the costs for any such remediation.

### **Human Resources**

27. There are no human resource implications.

### **Equalities**

28. There are no equalities implications.

### **Legal Implications**

29. Under Part IIA, the council has a statutory duty to inspect its area for the purpose of identifying contaminated land. If contamination land is found, the council must secure remediation in order to protect human health and the environment.

### **Crime and Disorder**

30. There are no crime and disorder implications.

### **Information Technology (IT)**

31. There are no specific IT implications.

## **Property**

32. As noted above, the council is the predominant landowner of this site.

## **Risk Management**

33. In compliance with the council's risk management strategy, there are no major risks associated with the recommendations of this report.

## **Recommendations**

34. That the advisory panel advise the executive member that:

- Option (a) should be accepted.

*Reason:* If the grant funding offered by DEFRA is accepted the council will be able to investigate the land off Fulford Cross, in accordance with obligations placed on the council by Part IIA.

- Option (b) should be rejected.

*Reason:* No other source of funding for contaminated land investigations has been identified. Refusal to accept all, or part of, the grant would prevent the council from conducting a detailed investigation of the site. This would mean that the council will not be fully carrying out its statutory obligations under Part IIA.

## **Contact Details**

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**Report Approved**  **Date** 02/05/2008

**Specialist Implications Officer(s)** *None*

**Wards Affected:** Fishergate

**For further information please contact the author of the report**

### **Background Papers:**

Contaminated Land Strategy, July 2001

Executive Member for Environment and Sustainability and Advisory Panel , July 2001

Review of the Contaminated Land Strategy, February 2005

Executive Member for Environment and Sustainability and Advisory Panel, February 2005

**Annexes:** None