

Great Yarmouth Third River Crossing

Application for Development Consent Order

Document 6.2: Environmental Statement Volume II: Technical Appendix 16A: Legislation, Policy and Guidance

Planning Act 2008

The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended) (“APFP”)

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1 Legislation, Policy and Guidance

1.1.1 Table 1.1 to 1.3 summarises the applicable legislation, policy and guidance to Chapter 16: Geology and Soils.

Table 1.1: Summary of Legislation

Legislation	Summary	Chapter Reference
<p>The Environmental Protection Act 1990 (Ref 16A.1)</p>	<p>The Environmental Protection Act 1990 defines, within England, Wales and Scotland, the fundamental structure and authority for waste management and control of emissions into the environment. The Act was intended to strengthen pollution controls and support enforcement with heavier penalties.</p> <p>Part 2A of the Environmental Protection Act 1990 was inserted into that Act by s57 of the Environment Act 1995 and contains a regulatory regime for the identification and remediation of contaminated land. In addition to the requirements contained in the primary legislation, operation of the regime is subject to regulations and statutory guidance.</p> <p>The main objective underlying the introduction of the Part 2A contaminated land regime was to provide an improved system for the identification and remediation of land where contamination is causing unacceptable risks to human health or the wider environment, assessed in the context of the current use and circumstances of the land.</p> <p>It also works alongside planning rules to help ensure that this land is made suitable for use following development.</p> <p>Development of land will have to take into account Part 2A because a change in the use of the land may bring the development inside the statutory definition of contaminated land by creating new or different receptors and/or</p>	<p>This Chapter addresses the needs of the Environmental Protection Act 1990 through the ground investigation, human health risk assessments and preparation of a conceptual site model to assess source of contamination, receptors and pathways, culminating in an assessment of contaminant linkages. See Sections 16.3, 16.6, 16.7, 16.8 and Appendices 16B, 16C, 16D.</p>

Legislation	Summary	Chapter Reference
	pathways, resulting in new contaminant linkages.	
Water Act 2003 (Ref 16A.2)	The Water Resources Act 1991 replaced the corresponding sections of the Water Industry Act 1989. The Act sets out the responsibilities of the Environment Agency in relation to water pollution, resource management, flood defence, fisheries, and in some areas, navigation.	This Chapter addresses the needs of the Water Act 2003 by assessing the potential for water pollution in the risk assessments in Appendix 16C and Appendix 16D.
The Construction (Design & Management) Regulations (CDM 2015) (Ref 16A.3)	The Construction (Design & Management) Regulations (CDM 2015) are the main set of regulations for managing the health, safety and welfare of construction projects (this includes the risks posed by contamination to construction workers and others who may be affected by the construction activities such as the general public and adjacent site users). CDM applies to all building and construction work and includes new build, demolition, refurbishment, extensions, conversions, repair and maintenance.	This Chapter addresses the needs of the CDM Regulations 2015 through assessing the risks posed by contaminants to construction workers and others who may be affected by the construction activities. See Appendices 16B and 16C.
Environmental Permitting (England and Wales)	The Environmental Permitting Regulations 2016 replace those parts of the Water Resources Act that relate to the regulation of discharges to controlled waters. Under the	This Chapter addresses the needs of the Environmental

Legislation	Summary	Chapter Reference
Regulations 2016 (Ref 16A.4)	regulations, groundwater activities relate to inputs of pollutants to groundwater.	Permitting Regulations through the assessment of contamination and the controlled waters risk assessment which feeds into assessing input of pollutants to groundwater. See section 16.8 Appendix 16C and Appendix 16D

Table 1.2: Summary of Policy

Policy	Summary	Chapter Reference
National Planning Policy Framework (Ref 16A.5)	The NPPF Section 15 provides guidance on conserving and enhancing the natural environment and paragraphs 170 and 178 to 180 specifically reference contaminated land. Sub-sections (e) and (f) of Paragraph 170 of the NPPF states that: <i>“Planning policies and decisions should contribute to and enhance the natural and local environment by: e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant</i>	This Chapter conforms to the policy framework by assessing soil and water pollution and land instability and proposing remediation / mitigation where appropriate. This Chapter assess whether the Principal

Policy	Summary	Chapter Reference
	<p><i>information such as river basin management plans; and</i></p> <p><i>f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate”.</i></p> <p>Paragraph 178 of the NPPF states that: <i>“Planning policies and decisions should ensure that:</i></p> <p><i>a) site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);</i></p> <p><i>b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part 2A of the Environmental Protection Act 1990; and</i></p> <p><i>c) adequate site investigation information, prepared by a competent person, is available to inform these assessments”.</i></p> <p>Paragraph 179 of the NPPF states that: <i>“Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner”.</i></p> <p>Paragraph 180 of the NPPF states that: <i>“Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development”.</i></p>	<p>Application Site is suitable for the proposed use (in the context of this chapter) and the remediation proposed will result in the site not being capable of being determined as contaminated land under Part 2A of the Environmental Protection Act 1990. Adequate site investigation is available and has been used to inform these assessments. The Chapter assesses the likely effects of pollution on health and the natural environment and also assesses the impacts to the site and wider area from the development. See Sections</p>

Policy	Summary	Chapter Reference
		16.6, 16.7, 16.8, 16.9 and 16.11
National Networks National Policy Statement (Ref 16A.6)	<p>The NPS NN provides some guidance on assessing geology, soils and contamination in relation to biodiversity and ecological conservation, coastal change, noise and vibration, water quality and resources, land use and sets out how the impacts should be considered.</p> <p>Paragraph 5.168 of the NPS NN states: <i>“For developments on previously developed land, applicants should ensure that they have considered the risk posed by land contamination and how it is proposed to address this”.</i></p>	<p>This Chapter conforms with the policy statement by assessing the likely significant effects on designated geological sites. It also assesses risks posed by land contamination (ground investigation and human health and controlled waters risk assessments) and includes remedial options for addressing the identified contamination. Land stability is also assessed. See Sections 16.6, 16.7, 16.8, 16.9 and 16.11</p>
National Policy Statement for	<p>The NPS for Ports, in Paragraph 5.13.8, likewise advises that developments on:</p>	<p>This Chapter conforms with the policy</p>

Policy	Summary	Chapter Reference
Ports (Ref16A.7)	<p><i>“... previously developed land.....should ensure that they have considered the risk posed by land contamination”.</i></p>	<p>statement by considering the risks posed by land contamination through ground investigation and human health and controlled waters risk assessments. See Sections 16.6, 16.7, 16.8, 16.9, 16.11</p>
Great Yarmouth Borough Wide Local Plan (Ref 16A.8)	<p>Policy INF18: In considering proposals involving hazardous development, in the vicinity of hazardous installations, or the development of contaminated sites, as shown on the proposals map, account will be taken of the amount, type and location of hazardous substances present, and the need for special precautions or restrictions to protect future users of the site and any other protected land.</p>	<p>This Chapter conforms to the requirements of the local plan by taking account of the amount, type and location of hazardous substances and the need for special precautions to protect future users of the site. See Sections 16.6 16.7, 16.8, 16.9 and16.11 and Appendix 16B and</p>

Policy	Summary	Chapter Reference
		Appendix 16C.

Table 1.3: Summary of Guidance

Guidance	Summary	Chapter Reference
Design Manual for Roads and Bridges, Volume 11, Section 3, Part 11, Geology and Soils. (Ref 16A.9)	Part 11 of DMRB details the assessment of geology and soils in the context of road schemes which can have an impact on both the geology and the soils of an area. It is therefore important that the potential impacts of development on both the soil and the underlying rocks are fully considered. The converse also applies in that existing soil conditions of a site can impose constraints on a proposed development for example, where land which has been contaminated by wastes from some previous industrial use.	This Chapter conforms to the requirements of DMRB through assessment of the underlying geology and soils and contamination through the ground investigation and human health and controlled waters risk assessments. See Appendix 16B and Appendix 16C.
BS 10175:2011 Code of Practice for the Investigation of Contaminated Land. (Ref 16A.10)	This British Standard provides recommendations and guidance on how to investigate potentially contaminated land, or land with naturally elevated concentrations of potentially harmful substances, to determine or manage any risks. It allows users to: Set the objectives of an investigation;	The ground investigation presented in Appendix 16C was undertaken in accordance with the

Guidance	Summary	Chapter Reference
	<p>Develop a strategy for the investigation;</p> <p>Identify risks arising from the presence of contamination;</p> <p>Design the different phases of the investigation;</p> <p>Carry out sampling, field testing and laboratory analysis;</p> <p>Conduct risk assessment of a potentially contaminated site.</p>	<p>requirements of BS10175.</p>
<p>Model Procedures for the Management of Land Contamination. (Ref 16A.11)</p>	<p>The Model Procedures for the Management of Land Contamination, CLR 11, have been developed to provide the technical framework for applying a risk management process when dealing with land affected by contamination. The process involves identifying, making decisions on, and taking appropriate action to deal with, land contamination in a way that is consistent with government policies and legislation within the UK.</p>	<p>The Desk Study Report (Appendix 16B) and the Ground Investigation Report, including the human health risk assessment (Appendix 16C) were undertaken in accordance with the requirements of CLR11.</p>
<p>Remedial Targets Methodology: Hydrogeological Risk Assessment for Land Contamination. (Ref 16A.12)</p>	<p>Assessment methodology for undertaking groundwater risk assessments.</p>	<p>The controlled waters risk assessment presented in Appendix 16C was undertaken in accordance</p>

Guidance	Summary	Chapter Reference
		with the requirements of the Remedial Targets Methodology document.
Assessing risks posed by hazardous ground gases to buildings. (Ref 16A.13)	Guidance on assessing the risks posed by hazardous ground gases, primarily methane and carbon dioxide to buildings. It consolidates good practice in investigation, the collection of relevant data and monitoring programmes in a risk-based approach to gas contaminated land. Two semi-quantitative methods are set out for the assessment of risk; one for low rise housing and one for all other development types.	The ground gas risk assessment in Appendix 16C was undertaken in accordance with CIRIA C665 by collecting and assessing ground gas monitoring data and calculating gas screening values. See Appendix 16C
Guidance on the classification and assessment of waste (Ref 16A.14)	Technical guidance on how to assess and classify waste.	A waste classification section within Appendix 16C presents the assessment of waste classification undertaken in accordance with Technical Guidance

Guidance	Summary	Chapter Reference
		WM3. Chapter 15 specifically deals with waste materials.

2 References

Ref 16A.1: The Environment Protection Act (1990). The Stationary Office 1990.

Ref 16A.2: The Water Act (2003). The Stationary Office 2003.

Ref 16A.3: The Construction (Design & Management) Regulations (2015). The Stationary Office 2015.

Ref 16A.4: The Environmental Permitting (England and Wales) Regulations (2016). The Stationary Office 2016.

http://www.legislation.gov.uk/ukxi/2016/1154/pdfs/ukxi_20161154_en.pdf

Ref 16A.5: Ministry of Housing, Communities & Local Government (2019). National Planning Policy Framework.

Ref 16A.6: Department for Transport (2015). National Policy Statement for National Networks.

Ref 16A.7: Department for Transport (2012). National Policy Statement for Ports.

Ref 16A.8: Great Yarmouth Borough Council (2016). Current status (January 2016) of policies from the 2001 Great Yarmouth Borough-Wide Local Plan.

Ref 16A.9: Highways Agency (1993). Design Manual for Roads and Bridges, Volume 11, Section 3, Part 11, Geology and Soils.

Ref 16A.10: British Standards Institution (2011). BS 10175:2011 Code of Practice for the Investigation of Contaminated Land.

Ref 16A.11: The Environment Agency (2004). Model Procedures for the Management of Land Contamination. Contaminated Land Report 11.

Ref 16A.12: Environment Agency (2006) Remedial Targets Methodology: Hydrogeological Risk Assessment for Land Contamination.

Ref 16A.13: CIRIA (2007). Assessing risks posed by hazardous ground gases to buildings. C665.

Ref 16A.14: Technical Guidance WM3 (2018). Guidance on the classification and assessment of waste (1st Edition v1.1).