



Cleaning up the Gateway

► **The delivery of new housing depends on the development of brownfield land and this is particularly the case in the Thames Gateway corridor. Buro Happold's Associate Director HUGH MALLETT, and Planning Potential's Associate Director STUART SLATTER, review the role of planning policy and newly published best practice in the clean up of contaminated land and the delivery of sustainable communities in the Gateway corridor.**

BARKER REVIEW

In her review of UK housing supply, Kate Barker recommended a substantial increase in new housing to combat the increasing shortage of housing and levels of homelessness. Part of the Government's response, unveiled in November 2007, was a plan to deliver 160,000 new homes and 225,000 new jobs in the Thames Gateway Region by 2016.

The redevelopment of brownfield land has been considered a key element in this plan and planning and policy guidance has promoted the safe development of housing on such sites, which have been viewed as a fundamental factor in the delivery of sustainable development and the protection of green open spaces.

Within the Thames Gateway, much of the available land for housing is either vacant or derelict and is contaminated due to historic uses, meaning it needs to be remediated before use. However, as the majority of the corridor falls within an identified flood zone, the complex interaction between ground contamination, groundwater level and flood potential needs to be fully considered to ensure integrated and safe redevelopment.

The Government's drivers for development in the area are far reaching and it does not ask solely for more homes to be built, but also for development to

deliver opportunities for employment, improvements to transport, access and the local environment. To 'get it right' is not an easy process and there are many complex issues and overlapping challenges involved in meeting the relevant legislation.

NATIONAL POLICY

A series of Planning Policy Statements (PPS) are in place to provide guidance on aspects of planning such as housing and flooding and, with contamination occurring on large parts of the land to be developed in the Thames Gateway corridor, the planning policy relating to contamination and remediation is of critical importance in the region.

For example, Planning Policy Statement 23 (PPS23) states that it is developers' responsibility to bear the cost of any remediation necessary to ensure safe development and that developers must demonstrate to the satisfaction of the local authority that they have addressed all matters of material planning consideration, including contamination.

A key provision of planning guidance is therefore to ensure that the land is made suitable for its proposed new use. PPS23 states that local planning authorities must be satisfied that 'the potential for contamination and any risks arising are properly assessed' and 'that the development incorporates any necessary

remediation and subsequent management measures to deal with unacceptable risks'.

On sites where the land is known or suspected to be affected by contamination as is the case in the Thames Gateway, developers must provide sufficient information with the planning application to demonstrate the existence, or otherwise, of contamination, its nature, extent and the risks it may pose – as well as evidence that such risks can be mitigated to an acceptably low level.

This does not mean that a detailed site investigation is required with every planning application. However, applicants are advised that for sites where there is a reason to suspect contamination, a desk study, which includes a walkover survey, should be carried out as a minimum. If the desk study confirms the potential presence of contamination, then a phased programme of further investigations must be carried out by the developer to assess risks and identify the need for and scope of any remediation. The remediation must remove unacceptable risk and make the site suitable for its new use.

In general, the costs of remediation can be factored in to a development plan and rarely are the sole, or even the main cause for the failure of a project to proceed, provided that such costs have ►

been properly identified early in the project – for example, following a desk study and an appropriate programme of site investigation. Failure to carry out such assessments to the appropriate level of detail at the inception stage of a project will inevitably cause delay and identification of financial liabilities too late in the process to enable modification to the development proposals with inevitable consequences on budget.

AT THE REGIONAL LEVEL

The Planning & Compulsory Purchase Act (2004) requires the preparation of RSSs. However, due to the complex nature of the Thames Gateway, there are three key Regional Spatial Strategies (RSSs) in place – the East of England Plan, South East Plan and London Plan – meaning that developments in the identified area of the Thames Gateway are directed by three different sets of guidance and decisions are made by the respective decision-making groups.

RSSs are designed to help drive and direct sustainable development, incorporate a Regional Transport Strategy and provide a broad development strategy for the region for a 15- to 20-year period.

While they inform the preparation of the more detailed and local level Local Development Frameworks (LDFs) and Local Transport Plans (LTPs), as well as regional and sub-regional strategies and 'area action plan' programmes that have a bearing on land-use activities, they only make broad assertions on development policy and defer to relevant LDFs and other planning guidance such as 'R&D 66'.

NEW BEST PRACTICE

The Government's repeated commitment to the redevelopment of land affected by contamination, for both housing and other developments, emphasises

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the continued need for the adoption of the good-practice procedures.

To this end, and to help unravel the complexities of brownfield development and the clean up of contaminated land, the National House-Building Council published guidance, known colloquially as 'R&D 66'. The guidance, first written in 2000, has been recently updated by Buro Happold and Enviro for the Council, the Environment Agency and the

Chartered Institute of Environmental Health.

The objective of R&D 66: 2008, published in June, is to support and supplement the substantial body of existing advice in the field, to ensure consistency in approach and to remove inefficiencies in the process arising from inadequate investigation and assessment. The document updates and replaces the previous edition by reference to the Environment Agency's 'Model Procedures for the Management of Land Contamination' (CLR11). This forms a framework within which the assessment of all sites of land affected by contamination should be carried out.

R&D 66: 2008 is consistent with the Model Procedures but has been written and published in a manner designed to enable the practical application of good practice within the framework. Its aim has been to provide user-friendly, accessible and pragmatic advice for developers, regulators and their specialist advisors. It promotes good practice and provides helpful pointers, templates and worked examples. While focusing on housing development, it is also of use when any type of development is proposed on land affected by contamination.

Critically, adoption of this good practice will satisfy the requirements of the planning regime and PPS23. In addition, development which complies with this good-practice guidance will 'as a minimum' ensure

that the land is not capable of 'determination' as Contaminated Land under Part IIA of the Environmental Protection Act. Therefore, the guidance promises to play a major role in the clean up of contaminated land in the Thames Gateway and beyond.

THE VISION

Clearly, there are many factors involved in the development of land in addition to remediation. But, as developing on contaminated land becomes more of an issue, such as in the Thames Gateway, and with RSSs driving developers on, site investigation, risk assessment and cost-effective remediation will play a bigger part of the overall development story.

It can be challenging to satisfy all the planning requirements, please the parties involved and tick the necessary boxes. However, the newly published best practice will assist the creation of innovative proposals that will help to deliver new housing, the associated wider opportunities and create truly sustainable communities. If all members of the 'contaminated land community' combine to provide safe development on remediated brownfield sites we will all have made a worthwhile and significant contribution towards the delivery of much-needed new housing in the Thames Gateway and beyond ◻

