

Land Forum Meeting



Meeting Notes

27th March 2017, 11.00am – 4.00pm

Location: WSP Offices, Birmingham

FINAL

Present:

Paul Sheehan	Chair
Seamus Lefroy Brooks	Association of Geotechnical and Geoenvironmental Specialists (AGS)/chair of NQMS Steering Group
Lucy Thomas	Deputy Chair & House Builders Federation
Alex Lee	Society of Brownfield Risk Assessors (SoBRA)
Lisa Hathway	National House Building Council (NHBC)
Jane Thrasher	Environmental Industries Commission (EIC)
Angela Haslam	Environment Agency
Mark Edwards	Lancaster City Council
Tony Mulhall	Royal Institution of Chartered Surveyors (RICS)
Julia Reynolds	Yorkshire and Lincolnshire Pollution Advisory Group (YALPAG)
Frank Evans	Soil and Groundwater Technology Association (SAGTA)
Nicola Harries (<i>Secretariat</i>)	Contaminated Land: Applications In Real Environments (CL:AIRE)

By telephone:

David Middleton	Defra
Matthew Llewellyn, Trystan James	Natural Resources Wales
Andrew Williams & Richard Clark	Welsh Government
Andrew Wiseman	UKELA & EP UK
Rachael Davies	Welsh Contaminated Land Working Group
Paul Nathanail	Specialist in Land Condition Register (SiLC)

Apologies:

Richard Boyle	Homes and Communities Agency (HCA)
Tony Lewis	Chartered Institute of Environmental Health (CIEH)
Steve Manning	Wiltshire Council
Peter Witherington	Home Builders Federation (HBF)
Rob Ivens	Mole Valley Council
Euan Hall	Land Trust (LT)
Theresa Kearney	Department of Agriculture, Environment and Rural Affairs and the Northern Ireland Environment Agency (NIEA)
Julia Thrift	Town and Country Planning Association (TCPA)
Caroline Thornton	Scottish Environment Protection Agency (SEPA)

Anne Wood	Department of Communities and Local Government (CLG)
Nicola Riley	Defra
Peter Johnson	UK Build/UK Strategic Forum for Construction
John Silvester	Planning Officers Society
Neil Parry	AGS

Agenda

1. Welcome and Apologies
2. Introductions of represented organisations
3. Review of previous minutes & actions
4. Update from Government Departments and Environment Agencies
5. Brief Roundtable Update from Industry Groups including but not limited to:
6. Standards update: what's new
7. NQMS Steering Group – update
8. Technical Guidance Group – update
9. Role of Land Forum in Land Reuse - update
10. Feedback from SAGTA Workshop on “Brexit and our Environmental Regimes Going Forward” – Paul Sheehan & Lucy Thomas
11. Discussion Topic
 - Natural Capital and the link to the Sustainable use of Land – presentation from Ian Dickie : EFTEC
12. AOB
13. Date and location of next meeting

Meeting Notes

1) Welcome & Apologies

Paul Sheehan (PS) welcomed everyone and apologies were given. He thanked Alex Lee for arranging the meeting room. Housekeeping and a health and safety awareness briefing was provided.

2) Introductions of represented organisations

Introductions were performed around the table and on the phone.

3) Review of Previous Minutes & Outstanding Actions

All actions were completed or are to be discussed as part of the meeting except:

Item 3 - PS confirmed that he again had contacted and invited the Infrastructure Commission to meet and present at the Land Forum meeting, but unfortunately, they have declined due to busy schedules. PS will follow up and hopefully arrange a meeting to explain about the Land Forum.

4) Update from Government Departments and Environment Agencies

Welsh Government

Richard Clark (RC) provided an update on the activities of Welsh Government (WG). He confirmed that they are in advanced discussions to secure funding for Part 2A work. Further information will be able soon.

Natural Resources Wales (NRW)

Matthew Llewellyn (ML) provided an update of activities on behalf of Natural Resources Wales (NRW). ML confirmed that they have been working on a position statement for the NQMS which they hope will be published in 2/3 month's time. They confirmed that they are supportive of the scheme. He also confirmed that NRW is now considered a specialist consultee and a statutory consultee for all major developments. NRW are looking at charging discretionary fees for planning consultations.

NRW has recently published three new codes of practice for groundwater covering Sheep Dips, Solvents and Underground Storage Tanks. They are available:

<http://gov.wales/topics/environmentcountryside/epg/waterflooding/publications/?lang=en&>
[&](#)

Scottish Government & Scottish Environment Protection Agency

Caroline Thornton (CT) was unable to attend in person and unfortunately was unable to send a report to be shared with the Land Forum.

Department of Communities and Local Government (DCLG)

Representatives from DCLG were unable to attend the meeting but sent a short report to be shared with the Land Forum.

The brownfield register and permission in principle Statutory Instruments were published on 23 March 2017 as follows:

The Town and Country Planning (Brownfield Land Register) Regulations 2017 No. 403 <http://www.legislation.gov.uk/id/uksi/2017/403>.

The Town and Country Planning (Permission in Principle) Order 2017 No. 402: <http://www.legislation.gov.uk/id/uksi/2017/402>.

Local Planning Authorities will be required to have their registers in place by 31 December 2017. Further information will be available on gov.uk shortly.

PS confirmed that DCLG has now agreed to meet. NH is setting up a meeting that she and PS will attend and feedback.

Department of Agriculture, Environment and Rural Affairs (DAERA) and the Northern Ireland Environment Agency

Theresa Kearney (TK) was unable to attend the Land Forum and unfortunately did not provide an update.

Defra Soil and Contaminated Land Team

David Middleton (DM) confirmed a lot of their time has been spent on the Willenhall Part 2A enquiry which has been called in by the Secretary of State. It is believed that this will be made public shortly.

Defra has also been assisting colleagues with the 25-year Environment Plan. DM confirmed that Defra is hoping to continue its engagement with the Common Forum (European regulators forum) post UK Exit, however no final decision has been made. DM will be attending the next meeting in Vienna.

POST MEETING NOTE

The Secretary of State (SoS) for Defra released her decision in relation to the appeal against a remediation notice in respect of Stonegate Housing Estate, Willenhall on 5 April 2017. The SoS agreed with the Inspector's findings with regard to the Local Authority's unreasonableness when making the decision to determine the land as contaminated. On other grounds, although it was found that the appellant was a knowing permitter liable and able to pay for the costs of remediation, it was found that it was responsible for only 84%, due to the presence of a second Class A person who can no longer be found. Under the legislation, this means that the Local Authority cannot serve a remediation notice but instead should recover the costs via a charging notice once they have carried out the work themselves.

It was also found that the appellant should be awarded costs for the expense it incurred paying consultants to try to understand the Local Authority's data that informed their decision to determine the land, due to a number of errors and inconsistencies in the data.

Environment Agency (EA)

Angela Haslam (AH) from Environment Agency attended and provided an update of their activities. She confirmed that she had taken over from Trevor Howard & Matt Whitehead. The EA are continuing to work on a number of historic Part 2A special sites. There are a few new special sites where site investigations currently being undertaken. The small capital grants programme (2017-2020) continues and a recent announcement for 2017-2018 applications has been made. £0.5M is available.

GP3 and Cemeteries Guidance Updated

New versions of the Environment Agency's Groundwater Pollution Prevention Principles (GP3) and Cemeteries Guidance were published on 14 March 2017. New web pages have been produced for definitions, EPR exclusions and discernibility. The GP3 position statements are in a single downloadable pdf document. Information on cemeteries has been consolidated and put onto separate web pages rather than pdf documents. The following email address can be used to give feedback on the revised documents: groundwater.enquiries@environment-agency.gov.uk

Release of the TPH document

CL:AIRE have published the new industry guidance on Petroleum Hydrocarbon risk assessment in groundwater - www.claire.co.uk/phg

The guidance has been prepared by a collaborative steering group incorporating representatives from industry, consultancy and the Environment Agency, Natural Resources Wales (NRW) and the Northern Ireland Environment Agency (NIEA).

National Quality Mark Scheme for Land Contamination

The Environment Agency is supportive of the scheme and feedback will be provided to the NQMS steering group to help embed the scheme in its 1st year of operation.

JAGDAG

The Joint Agencies Groundwater Directive Advisory Group (JAGDAG) has published their "Methodology for the determination of hazardous substances in groundwater for the purposes of the groundwater directive 2006/118/EC" together with an updated list of hazardous substances and the consultation response. The methodology is a UK wide framework that sets criteria for how to assess whether a substance is a hazardous substance in groundwater. Some substances that are currently hazardous substances will become non-hazardous substances and vice versa. UKTAG has also published its "Technical Report on Groundwater Hazardous Substances" which defines the standards that will be applied to regulating hazardous substances.

AH raised the possibility of whether there is interest around the Land Forum for industry to update the Guiding Principles documents. She will prepare a short options paper on what she thinks could be done but would welcome industry's views

ACTION: AH to prepare an options paper for the updating of the Guiding Principles document for circulation.

Homes and Communities Agency (HCA)

Richard Boyle (RB) was unfortunately unable to attend the meeting. He said the briefing provided at the last meeting has not changed. They are now looking at delivering on the previously announced initiatives.

5) Update from Industry Groups

AGS

Seamus Lefroy-Brooks (SLB) confirmed that AGS recently had their Members Day. AGS's collaboration with British Drilling Association is continuing and a number of reports from their industry survey have or are currently being published.

SiLC

Paul Nathanail (PN) confirmed that the annual SiLC Forum is on 27th April 2017. SiLCs converting to Suitably Qualified Persons (SQPs) has been successful. Currently there are 70 converted or have passed the recent exam which would qualify them automatically as a SQPs. Geological Society has recently set up a specialist contaminated land working group to support its members, their first meeting is on the 29th March 2017.

NHBC

Lisa Hathway (LH) confirmed that their CEO has recently left, and recruitment is under way for a replacement. LH confirmed that NHBC has announced that the NQMS is now live.

SoBRA

Alex Lee (AL) confirmed that they had a successful winter conference in December and now are planning their Summer Conference which is likely to be on vapours in Liverpool. The first set of accreditation interviews have taken place. SoBRA are now going to be looking at supporting younger members “early career professionals” and to support them in how to eventually become accredited. They are looking at holding an event in Oct/November with the Geological Society, in addition are looking at providing bursaries for students at universities.

Some of the existing working groups are now coming to an end so SoBRA are looking at new areas of research.

AL confirmed that they now have 20 registered assessors.

EPUK

Andrew Wiseman (AW) confirmed that EPUK steering group recently met but there is nothing to report to this meeting. It is not a dissemination body like other organisations.

UKELA & Law Society England

AW confirmed that there is little to report regarding environmental aspects. There has been discussions regarding Brexit from lots of different aspects.

CL:AIRE

NH confirmed that CL:AIRE’s main recent activities have been on the Definition of Waste: Development Industry Code of Practice working on version 3, launching and managing the NQMS and Asbestos in Soil. They have rolled out of a series of training events for Asbestos Awareness and Non Licensable Work making these course bespoke for working with asbestos in soil in light of the publication of CAR-SOIL. CL:AIRE has recently published 12 bulletins from the NanoRem project which was a four year European funded project that finished in January 2017 These are all available at: www.nanorem.eu. CL:AIRE also published the Petroleum Hydrocarbon Guidance document in January 2017, joint badged with a number of industry groups which has received very positive feedback.

EIC

Jane Thrasher (JT) confirmed that Environmental Industries Commission (EIC) recently had a contaminated land working group meeting. They are looking at the impact of Brexit on the environmental industry and identifying which legislation that they will encourage the government to amend. EIC feels that Brexit is a threat to skills as so many member organisations have non UK citizens working in their companies. EIC Labs Group are finalising the blue book for asbestos in soil and are looking at the possibility of creating a TPH blue book.

RICS

Tony Mulhall (TM) provided an update on behalf of Royal Institution of Chartered Surveyors (RICS). He confirmed that they are looking at updating their contaminated land guidance document. TM also confirmed that RICS has recently updated their guidance on

Compulsory Purchase Orders (CPO) considering the number of large UK infrastructure projects such as HS2 and Heathrow expansion.

SAGTA

Frank Evans (FE) provided an update on The Soil and Groundwater Technology Association (SAGTA's) activities. He confirmed that SAGTA had recently hosted a workshop, understanding the aspects, benefits and challenges of EU-influenced environmental legislation on industry in the context of Brexit. This will be discussed later. SAGTA continues to support several industry initiatives and has provided their views to JAGDAG.

Yorkshire and Lincolnshire Pollution Advisory Group (YALPAG)

Julia Reynolds (JR) provided a short update on YALPAG's activities. She confirmed that at their last meeting they agreed to undertake their own audit of reports that had been submitted as part of the NQMS. Regarding the introduction of Brownfield Registers, so far there is little evidence of the contaminated land officers in YALPAG's workload being impacted. This obviously is just from one region in the UK. YALPAG also voiced concern that there is no national voice for local authorities.

JR also confirmed that North East, Yorkshire and North West contaminated land forums are planning to get together and have a joint summer workshop.

Lancashire Contaminated Land Officer Group

Mark Edwards (ME) confirmed that he attends the Cumbria Contaminated Land Officer Group (CLOG) along with the Lancashire CLOG. They are planning a meeting in the late Spring and have invited Seamus Lefroy-Brooks to present on the NQMS.

Welsh Contaminated Land Working Group

Rachael Davies (RD) provided an update to the Land Forum on their activities. She confirmed that they are currently working on a series of guidance documents to support land contamination issues in Wales. These will be shared on a knowledge hub and will be available to all local authority regulators.

They have also been supporting Welsh Government with the updating of the Developers Guide and the series of technical code of practice guidance documents being prepared by NRW such as underground oil storage tanks.

6) **Standards**

Mike Smith (MS) had sent details about the number of standards that are currently in preparation through British Standard. A summary list to these documents can be found here:

<http://www.claire.co.uk/component/phocadownload/category/26-landforum?download=592:land-forum-standards-update-march-2017>

7) **National Quality Mark Scheme for Management of Land Contamination (NQMS)**

SL-B chair of the NQMS Steering Group provided an update on the NQMS scheme. He confirmed the first meeting was held on 8th March 2017 where the Terms of Reference for the Steering Group were discussed and agreed along with draft Terms of Reference for the SQP Provider (SiLC) and the NQMS Administrator (CL:AIRE). These will be finalised for the next meeting.

SL-B confirmed that several presentations have been provided to help promote the scheme along with a letter was circulated to local authority chief planning officers to make them aware of the scheme to help with the promotion. SL-B explained that the letter had caused some concern with a small number contaminated land officers as they felt that the letter was encouraging planning departments to not consult with those responsible for land contamination in their councils. This was not the intention. Therefore, the steering group discussed ways that the declaration that is appended to planning applications could make it clear that the declaration relates to land contamination and therefore needs to be seen by the person responsible for land contamination issues within the council. NH confirmed that this amendment has already been done.

The steering group will also be developing an auditing plan which will be made available on the website once agreed and finalised.

8) Technical Guidance

NH confirmed that following the meeting in December, a small amount of money had been secured through the Environment Agency, NDA and RSK to update the "Guidance on Comparing Soil Contamination Data Guidance". NH confirmed that a working group had been formed and was made up of industry groups represented at the Land Forum plus Paul Nathanail, Nigel Marriott (chartered statistician) with Peter Witherington chairing. At the initial meeting for those that attended, it had been agreed that the document should be updated, simplified in places and presented better.

Paul Nathanail (PN) (as reported in previous meetings) feels that the document should be withdrawn entirely and started again. PN provided his explanation why he felt it was fundamentally flawed. He encouraged the working group to review the FERA report written for SP1010. NH confirmed that a meeting is being planned to move the project forward.

9) Role of Land Forum in Land Reuse

PN confirmed that he had not had a response from DCLG offering to assist in defining the term "brownfield". PS confirmed that we would raise this when we meet DCLG confirming our support to assist DCLG.

10) Feedback from SAGTA Workshop on "Brexit and our Environmental Regimes"

PS confirmed that he and Lucy Thomas (LT) attended as Land Forum Chair / Deputy Chair the SAGTA workshop that was discussing "Brexit and the Environmental Regimes". He confirmed that he felt it was interesting and worth sharing the main discussion points. Frank Evans (FE) will find out whether the slide sets from the presenters are able to be shared.

Action: FE to share the slides from the SAGTA workshop

PS & FE explained that each main area of environmental legislation was presented including groundwater, environmental impact & habitats, waste, industrial emissions and environmental liabilities.

It was concluded that it is important to understand that most environmental legislation in the UK is influenced by EU & EC judgements and underpinned by international conventions so there is very little room for manoeuvre. The biggest divergence at present was the difference between England & Wales and Scotland. Scotland appears to be much more challenging for industry in groundwater and waste legislation and their interpretation of the EU directives.

From a Land Forum perspective PS will now be encouraging Defra to liaise with Land Forum and provide feedback and act as a sounding board. Defra are keen to engage.

Action: Paul Sheehan to liaise with Defra and invite to the next meeting

From conversations that PS had with Defra they are keen to export UKs environmental knowledge and expertise post EU exit as UK has a lot to offer. Land Forum agreed that the UK are world leaders in risk based decision making policy and Department of Trade and Industry are keen to exploit this expertise.

11) Natural Capital and the link to the Sustainable use of Land

Ian Dickie from EFTEC provided a presentation on the role of natural capital and how this is linked to the sustainable use of land.

Presentation slides: <http://www.claire.co.uk/component/phocadownload/category/26-landforum?download=593:land-forum-march-2017-natural-capital-presentation>

Discussion:

PS and Lucy Thomas (LT) had asked for this presentation to help generate discussion around the Land Forum members to think how natural capital can be used more broadly in valuing brownfield land and helping inform decision makers to measure the value of this land, building on the discussions that had previously occurred with Euan Hall and how the Land Forum could broaden its remit rather than staying more technically focussed.

The presentation was welcomed and helped forum members understand better how this could be a tool to help government monetise things better. It was felt that this could assist treasury.

Land Forum members agreed that a position paper could be prepared on the "Importance of valuing brownfield land" setting out some high level general principles. This could be used to generate better discussions. However, care needs to be taken that any statements are defensible.

Action: PS & LT to prepare an outline brief of a position paper to move forward

12) Any Other Business:

No further business was identified.

13) Date of next meeting

The next meeting will be held in early July 2017. Venue to be confirmed but likely to be in London to encourage DCLG & Defra to attend.

ACTION: NH to circulate date of meeting.