

# National Brownfield Forum

## Meeting Notes

21<sup>st</sup> March 2019, 11.00am – 4.00pm

Location: Defra, Nobel House, Smith Square, London



### FINAL

#### Present:

Lucy Thomas	Chair
Nicola Harries ( <i>Secretariat</i> )	CL:AIRE
Paul Nathanail	Geological Society & Deputy Chair
Angela Haslam & Barry Shepard	Environment Agency (EA)
Laura Edwards	Ministry of Housing, Communities & Local Government (MHCLG) (morning only)
Andy Ruck	Department of Environment, Food & Rural Affairs (DEFRA) – Biodiversity team (morning only)
Jane Thrasher	Environmental Industries Commission (EIC)
Doug Laidler	Soil and Groundwater Technology Association (SAGTA)
Paul Burden	Specialist in Land Condition (SiLC)
Vivien Dent	Association of Geotechnical and Geoenvironmental Specialists (AGS)
Emma Tattersdill	UK Environmental Law Association (UKELA)
David Rudland	Environmental Protection UK
Seamus Lefroy Brooks	Chair of NQMS Steering Group

#### By telephone:

Matthew Llewellyn	Natural Resources Wales
Caroline Thornton	Scottish Environment Protection Agency (SEPA)
Mark Edwards	Lancaster City Council
Paul Sheehan	Chair of Land Stewardship/Natural Capital Working Group (morning only)
Stella Keenan	Yorkshire and Lincolnshire Pollution Advisory Group (YALPAG)
Lisa Hathway	National House Building Council (NHBC)
Alex Lee	Society of Brownfield Risk Assessment (SoBRA)

#### Corresponding Members:

Fiona Mannix	Royal Institution of Chartered Surveyors (RICS) (corresponding)
Julia Thrift	Town and Country Planning Association (TCPA)
Philip Ridley	Planning Officers Society
Euan Hall	Land Trust

#### Apologies:

David Middleton	DEFRA Soils Team
Andrew Williams	Welsh Government
Hallan Sambrooke	Newcastle under Lyme Council, Staffordshire Contaminated Land Working Group
Rachael Davies	Flintshire Council & Welsh Contaminated Land Working Group
Richard Boyle	Homes England

Theresa Kearney

Department of Agriculture, Environment and  
Rural Affairs and the Northern Ireland  
Environment Agency (NIEA)  
Wiltshire Council  
Mole Valley Council  
Home Builders Federation (HBF)

Steve Manning

Rob Ivens

Peter Witherington

## 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. Defra Biodiversity Net Gain update
6. Standards Update
- LUNCH
7. Brief Roundtable Update from Industry Groups
8. Update on NPPF legal challenge
9. Sub Groups Update
10. Land Development Guidance Road Map
11. Where do we want to focus NBF efforts going forwards and why?
12. AOB
13. Date and location of next meeting

## Meeting Notes

### 1) Welcome & Apologies

Lucy Thomas (LT) welcomed everyone and apologies were given. Housekeeping was provided along with thanks to Angela Haslam of Environment Agency for hosting the meeting.

### 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 except for.

#### a. Defra Update (July 2018 meeting)

David Middleton (DM) to enquire with BEIS about their definition of contaminated land.

**ACTION: DM to follow up with BEIS and report back to NBF.**

#### b. EA Update (July 2018 meeting)

Angela Haslam (AH) to discuss with Defra about funding for Part 2A work and whether funding for projects may become easier following BREXIT as state aid rules would no longer apply.

**ACTION: AH to follow up with Defra**

#### 4) Update from Government Departments and Environment Agencies

##### Welsh Government (WG)

Matthew Llewellyn (ML) provided an update on behalf of Welsh Government (WG). He confirmed that the Welsh Government has provided Anglesey Council with an ex gratia payment of approximately £360,000 (60% of the total anticipated costs) for the remediation of 16 dwellings in the Craig Y Don Estate, Anglesey in October last year. This followed previous support provided by a WG contaminated land capital fund (which ran for one year 2017/18) for site investigation. The remediation is now nearing completion.

There are no current plans for any capital fund for land contamination projects for the next financial year. The WG have recently secured a small amount of funding (over a 3 year period) for the Welsh Contaminated Land Working Group (consisting of Welsh LAs and NRW) to provide training events for officers.

##### Natural Resources Wales (NRW)

Matthew Llewellyn (ML) provided the update on behalf of NRW. He confirmed that Welsh Planning Policy Guidance v10 was published Dec 2018 and this version now references the National Quality Mark Scheme in the Land Contamination section.

<https://gov.wales/planning-policy-wales>

The guidance is different to England's in that it does not reference Planning in Principle (PIP) and brownfield registers.

In addition, ML confirmed that the guidance document "Development of Land Affected by Contamination: A Guide for Developers published by WLGA, NRW and Welsh Government May 2017 is now on CL:AIRE's Water and Land Library (WALL).

<https://www.clare.co.uk/component/phocadownload/category/27-wall-documents?download=630:development-of-land-affected-by-contamination-a-guide-for-developers>

Welsh Contaminated Land Working Group had a successful two-day training event on site investigation and ground gas. NRW are currently dominated by BREXIT looking at business continuity along with an internal reorganisation.

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

Theresa Kearney was unable to attend in person and unfortunately did not provide an update report.

##### Scottish Government (SG) & Scottish Environment Protection Agency(SEPA)

Caroline Thornton (CT) provided an update of activities in Scotland on behalf SG and SEPA.

##### **Scottish Government**

The Scottish Government legal department are completely tied up with BREXIT which has meant the continued temporary parking of a few contaminated land / groundwater related pieces of work, including the Scottish Government groundwater directions consultation (hazardous substances) and a consultation on guidance to flesh out the provisions outlined in S.45 of the Regulatory Reform (Scotland) Act (to do with powers enabling contaminated

land to be taken off the register). It is unlikely to see much progression of these until after BREXIT decisions.

For interest purposes only, there was a question in government about the concerns of an area in Glasgow that has significant chromium contamination. Chromium is a known issue and there is a large-scale regeneration project being supported by the Scottish Government for £155M to help address this issue.

## **SEPA**

Scottish Vacant and Derelict Land (SVDL) Task Force (joint venture between The Scottish Land Commission and SEPA) have announced their very ambitious goal of halving Scotland's vacant and derelict land by 2025. They are in the process of setting up a number of specifically focused sub-groups. The SVDL are focussing on the first sixty sites, identifying gaps in information, why the sites are derelict and developing short term action programme for those sites.

SEPA are continuing to look at their planning and land contamination functions and how they can work more effectively together. They are looking at new ways of working to be more strategic and less reactive, so land contamination is not seen as a barrier for developers.

### Defra Soil and Contaminated Land Team

David Middleton was unable to attend in person but confirmed that much of his time recently has been spent supporting colleagues in relation to the proposed soil testing around Grenfell Tower.

### Homes England (HE)

Richard Boyle was unable to attend in person but provided the following report.

The full range of announcements/news and information, including our ground breaking "Strategic Plan 2018 to 2023", can always be found via our homepage at <https://www.gov.uk/government/organisations/homes-england>.

## **Land Hub**

The Homes England Land Hub has recently been published (11 March 2019) and presents development sites that we plan to bring to market, unlocking the construction of thousands of new homes across the country. The Land Hub replaces what was previously known as the Land Development and Disposal Plan (LDDP).

Sites are displayed geographically, and users are able to view site specific details, including red-line plans and search location by post code. These sites will be available to developers over the next 12 to 18 months, with the potential for thousands of homes to be built as well as other commercial and business use.

For further information about any of the Land Hub sites email [landenquiries@homesengland.gov.uk](mailto:landenquiries@homesengland.gov.uk), whilst guidance about the Land Hub can be found at <https://www.gov.uk/government/publications/homes-england-land-hub>.

## **Local Authority Accelerated Construction funding**

The first Local Authority Accelerated Construction funding of £10.6million went to Welwyn Hatfield Borough Council. The council will use funding to prepare three sites to build 670 new homes in the borough. Funding will accelerate development of the sites using modern methods of construction.

This is the first site of many via the Local Authority Accelerated Construction funding.

### **Services Frameworks**

The additional appointment of consultants to our Services Frameworks continues. Two new Frameworks are live and a third is due shortly. These are:

- Multi-Disciplinary Framework
- Asbestos Services in Buildings and Structures Framework
- Land Surveying Framework (due shortly)

These accompany our other Services Frameworks, the:

- Property Framework
- Legal Framework

In addition, there is also available our Development (Constructing) Framework, the:

- Delivery Partner Panel 3 (DPP3)

The Homes England new Frameworks provide technical advice, services and design input to help Homes England and partners prepare brownfield and surplus public sector land for residential development. Their expertise will help increase the pace, scale and quality of development and accelerate delivery of new homes in areas of greatest demand.

Like all Homes England Frameworks, it is also available to all other public sector bodies (including LAs, LEPs, Combined Authorities, etc.) to ensure they can easily secure OJEU, EU and UK procurement compliant appointments. More information, including all available consultants, on the Services Frameworks can be found at <https://www.gov.uk/guidance/technical-panels>, whilst information on DPP3 can be found at <https://www.gov.uk/guidance/delivery-partner-panel-3>.

### **Environment Agency (EA)**

Angela Haslam (AH) from Environment Agency (EA) attended and provided an update of their activities. She confirmed that they have been working on guidance for [GOV.UK](https://www.gov.uk) titled "Land Contamination Risk Management (LCRM)". This is nearing completion and will be made live as soon as it is signed off which hopefully will be in the next few months. This web based guidance is reformed content based on CLR11. CLR11 was archived from [GOV.UK](https://www.gov.uk) in 2016 and the EA have been working on a solution to this. The EA are looking for feedback for a six month period. Following this, CLR11 will be officially withdrawn.

The scope, framework and purpose introduced by CLR11 will remain intact. It is now user focussed, shorter, navigable, easier to understand and written in clear language and will be easier to keep up-to-date. It is aimed at someone doing this for the first time as well as experienced professionals. EA has not looked to make wholesale changes but they have streamlined the remediation section so it is clearer.

The EA must meet new laws on accessible content – CLR11 cannot be re-instated back on [GOV.UK](https://www.gov.uk). It will not however have any flow charts or figures in as this is not compatible with the [GOV.UK](https://www.gov.uk) format which the EA now has to use. LCRM will continue to link to CL:AIRE's water and land library (WALL).The EA are looking at options for CL:AIRE to host an overview flowchart.

AH confirmed that they are starting to develop a communications strategy to inform people of the proposed changes and how they can respond. There was concern that there may be a large amount of feedback and attendees wondered how this would be managed. AH explained that when the EA withdrew GP3 and replaced it with web pages they were not overwhelmed with feedback, it was manageable. The EA stressed they want to make this acceptable to both regulators and industry so welcome the feedback.

AH also shared how the EA are still heavily involved in developing the soil sampling strategy supporting MHCLG regarding Grenfell. This is a multi-agency partnership to reassure local communities after the fire in relation to soil quality.

The EA are also involved in a number of Part 2A sites and potential special sites.

In addition, the EA are starting to use drones for several applications including old mine sites, flood defenses and using them with sensors to look at potential contamination in more detail. The benefit of drones is accessing remote areas of sites and very good from a health and safety perspective on post industrial sites. Paul Nathanail (PN) made people aware that the Energy Institute has published a document in 2017 on "Remote telemetry for Environmental Monitoring of Ground water, Ground Gas and Non Aqueous Phase Liquids".

<https://publishing.energyinst.org/topics/environment/remote-telemetry-for-environmental-monitoring-of-groundwater,-ground-gas-and-non-aqueous-phase-liquids>

There was discussion on the benefits of using drones and how a number of attendees companies are now using drones on large sites as another tool, as it gives a totally different perspective than carrying out a walk over. The use of drones is improving hugely but needs to be used as a tool.

PN asked AH whether the EA were going to get more involved in the Common Forum as he feels it is essential to maintain those links. AH confirmed that she is receiving the emails and is hoping to attend a meeting, but she currently is finding it hard with current workloads.

As mentioned in previous National Brownfield Forum meetings, it is felt that Defra is missing an opportunity to promote UK policy and practice abroad and attending Common Forum meetings would be a good start.

#### Ministry of Housing, Communities and Local Government (MHCLG)

Laura Edwards (LE) provided an update on behalf of MHCLG. She confirmed the following:

The Government ran a consultation on updates to the National Planning Policy and Guidance including the standard method for assessing local housing need, from October until December 2018 and published the Government response to the consultation in February 2019.

MHCLG published updated guidance on housing and economic needs assessment, which implements the changes to the standard method set out in the consultation. Minor changes to the text of the National Planning Policy Framework to make the proposed clarifications relating to housing land supply have been made, the definition of "deliverable" and appropriate assessment for habitats sites, which are reflected in an updated version.

In February they published the Housing Delivery Test measurement for 2018 and a technical note setting out how the Housing Delivery Test was calculated. The Housing Delivery Test provides transparency about where housing is, or is not, being delivered in relation to the number of homes communities require.

In the Spring Statement (March 2019), the chancellor announced:

- Mandating biodiversity net gain through the planning system in the forthcoming Environment Bill, following the consultation.
- The Government's response to Sir Oliver Letwin's independent review of build out rates and the recent planning reform consultation.

In addition, LE confirmed the first tranche of planning practice guidance has been published to reflect the revised National Planning Policy Framework. This includes updates to the following guidance: Before submitting an application, Climate Change, Community Infrastructure Levy, determining a planning application, Environmental Impact Assessment, Hazardous Substances, Plan making and Planning Obligations.

There will be future updates to the planning practice guidance, including the land affected by contamination guidance.

Finally, LE confirmed that 100% of local authorities have now published a local register of brownfield land suitable for housing.

LE was asked if there will be the opportunity to feed into the updating of the planning practice guidance for land affected by contamination? LE explained that these are not consulted on as they are guidance but are shared with relevant government departments and agencies for their comments. Amendments are able to be made more easily on guidance, but they will look to co-ordinate changes. It was asked whether some sections may be shared with the NBF to check as there are a number of willing specialists that could be used as sounding boards to check wording. LE will take this offer back to colleagues in MHCLG.

#### 5) Defra Biodiversity Net Gain Update

Andy Ruck (AR) of Defra's Biodiversity Net Gain team provided an update on their activities. He confirmed that following the consultation that ended last year, there was strong support to mandate biodiversity net gain within planning which was announced by the Chancellor in the Spring Statement. Defra also hosted a workshop in early January which Paul Sheehan (PS) attended on behalf of the National Brownfield Forum (NBF). A report from the workshop has been circulated. AR confirmed that they are still assessing all the responses from the consultation.

AR confirmed that the consultation recognised the value of brownfield/previously developed land and the potential for exemption of such sites. Decisions about this are still to be made about this and how to identify those high biodiverse sites.

PS also raised the point that the scheme proposes to use suitably qualified assessors to measure and calculate biodiversity net gain. The consultation did not provide much detail about the assessors and how will these assessors demonstrate their competency? He strongly suggested that NBF could help Defra benchmark a system as the NBF has gone through a similar process of assessing knowledge and competency in developing the Suitably Qualified Person (SQP) for the National Quality Mark Scheme for Land Contamination Management (NQMS). It was felt that Defra need to mandate the quality of the assessors required to undertake this work quickly, as a new emerging market could start to be developed and people see an opportunity to try and demonstrate what is an experienced/suitably qualified person.

AR was also asked if there was going to be a minimum size of development for biodiversity net gain measurement to be a requirement? AR confirmed that Defra acknowledged the complexities of assessing net gain on small sites and that it may not be viable. This is still to be decided.

AR explained that much of their work builds on international good practice.

## 6) Standards Update

Mike Smith sent an update of current standards that are being updated or have recently been published which Nicola Harries shared with NBF members. She summarised his report.

A more detailed summary is available here:

<https://www.claire.co.uk/component/phocadownload/category/26-landforum?download=675:national-brownfield-forum-standards-march-2019>

There was a discussion amongst NBF members about the number of standards that appear to be being produced, concern at the high costs of them and whether they are all necessary and relevant. It was felt that it was extremely hard for practitioners to keep abreast of them all and for small consultancies the costs seem prohibitively expensive. The NBF then discussed about the legal status of British Standards. Does industry have to follow them? Would they be negligent if they didn't? Could industry not use them and refer to other guidance that other bodies produce, often free of charge? Emma Tattersdill (ET) agreed to discuss this point internally at UKELA and report back.

**ACTION: ET to discuss with UKELA colleagues and feedback to NBF.**

## 7) Update from Industry Groups

### **AGS**

Vivien Dent provided an update on behalf of AGS and the different activities of their working groups.

The AGS Contaminated Land Working Group have now published:

- AGS Guidance on the description of Anthropogenic Materials- A Practitioners Guide;  
<https://www.ags.org.uk/item/description-of-anthropogenic-materials-a-practitioners-guide/>
- AGS Guidance on Waste Classification for Soils – A Practitioners Guide  
<https://www.ags.org.uk/item/ags-guidance-on-waste-classification-for-soils-a-practitioners-guide/>
- And have updated AGS Guide to Environmental Sampling – with information on PFAS and PFOS  
<https://www.ags.org.uk/item/ags-guide-to-environmental-sampling/>

Position statement on the AGS/BRE cover system document is also nearly completion and AGS continue to update the asbestos document.

### Upcoming events:

**AGS Annual Conference 5<sup>th</sup> April 2019** : where updates from all working groups and speakers on relevant topics associated with each working group will be given.

**AGS Commercial risks and how to manage them - 3<sup>rd</sup> July 2019** covering the following topics:

- Liabilities associated with reliance and collateral warranties
- The importance of definitions when agreeing scopes and objectives
- Professional indemnity insurance – protection for the insured or the client's "get out of jail-free" card
- The battle of the forms – a focus on contract formation and purchase orders
- When is a "supervisor" not providing supervision?
- Fitness for purpose or reasonable skill and care.

- Potential liabilities for landfill tax

### **AGS Safety Conference - 21<sup>st</sup> November 2019**

A full day event with a focus on topics of interest such as an occupational health, mental health, the challenges of an HSE investigation and the dangers associated in working around pipelines. There will also be two break-out workshops to allow delegates to participate in more intimate round-table discussions.

### **NHBC**

Lisa Hathway (LH) gave a short update on behalf of NHBC.

- NHBC Standards were published as an online version only, where foundations are started on or after 1<sup>st</sup> January 2019. The changes this year predominantly relate to building superstructures. As always, a copy of NHBC Standards are freely available on the NHBC website [www.nhbc.co.uk](http://www.nhbc.co.uk)
- NHBC published an article in Standards Extra 24, in November 2018 with regard to changes to the landfill legislation. This is also freely available online.
- The CIRIA Guide to Brownfield Sites, which was a part-funded project with NHBC, has been well received; and received very good feedback. This is available both from CIRIA and freely available from NHBC foundation <https://www.nhbcfoundation.org/publication/small-brownfield-sites-land-contamination/>.
- NHBC has a new Engineering Policy Manager: Steve Odunmbaku.

### **SiLC**

Paul Burden (PB) provided an update on behalf of SiLC. He confirmed that they will soon be appointing a deputy chair to help with succession planning. The Annual SiLC Forum held on 3<sup>rd</sup> March 2019 was a great success with a very interesting panel discussion on asbestos in soil. They have just launched the SiLC affiliate scheme to encourage young professionals pre chartered to join SiLC. It will give support to those individuals who ultimately will want to become SiLCs in time. The 2019 exam round is currently in progress with thirteen applicants. SiLC will be hosting four introduction days due to high demand and announcing them six months ahead to allow people to plan.

### **EPUK**

David Rudland (DR) provided an update on behalf of EPUK.

EPUK celebrated its 120th year in 2018, having been formed in 1898 in response to pollution concerns in London and Salford. To mark the event a reception was held last September at the Guildhall in London, by kind permission and with the support of the City of London, for which we are very grateful. A distinguished panel of speakers at the event included Deputy Keith Bottomley, Chair of the Port Health and Environmental Services Committee of the City of London., Lord Whitty, our President, Professor James Longhurst of the University of the West of England, Professor Stephen Holgate and Sarah Legge, Chair of the EPUK Air Quality Policy Committee. The closing address was given by Mary Creagh MP, Chair of the Commons Environmental Audit Committee.

The annual autumn conference was held The EPUK National Conference was held at the University of Aston on 15 November covering a variety of topics.

Land Quality Committee of EPUK last met on 14 March. One matter of concern to members has been some incidents involving groundworks at petrol forecourts, including one fatality. There is some concern about lack of awareness of the particular hazards from working at disused garage sites, so an EPUK land contamination working group are to produce a brief guide which describes the functioning of a typical filling station, the fuel infrastructure present, the risks of uninformed groundworks and where to go for help and information. It will be aimed at the general brownfield industry rather than being a specific technical publication. With the introduction of electric vehicles and a ban on new diesel/petrol car

sales from 2040 it is anticipated there will be more and more filling stations that will close and will be available for development. With a typical 30-year investment life, as tanks come to their end of life, site owners may feel it is not worth reinvesting in replacing the tanks as this date approaches and therefore they will close. Considering this and recent reported incidents, EPUK feels greater awareness is needed of the hazards and risks of redeveloping former petrol stations.

There have been a few recent incidents that have hit the press (but not all in land contamination/brownfield press as they have been dealt through trading standards or health and safety executive) to remind us how filling stations are capable of causing significant pollution or safety issues.

<https://www.gov.uk/government/news/tesco-hit-with-major-8million-fine-for-pollution-incident>

<https://www.kentonline.co.uk/thanet/news/dangerous-renovation-work-could-have-caused-petrol-station-explosion-183044/>

<http://camdennewjournal.com/article/swains-lane-explosion-investigators-probe-buried-fuel-tanks>

It is anticipated that the guidance will be freely available, and DR will ask EPUK whether joint badging maybe an option with other NBF members. EPUK are hoping to publish a draft later 2019.

DR was asked whether EPUK had considered preparing the guidance in such a format that could be replicated for other land uses that may be lacking guidance. This is how DoE profiles were developed because a template was prepared initially that could easily be populated. DR agreed to feedback to his colleagues in EPUK.

**ACTION: DR to feedback NBF's suggestion about creating the guidance in a format that could be replicated for other land uses.**

### **UKELA**

Emma Tattersdill (ET) provided an update on behalf of UKELA.

Like many other organisations, UKELA has been busy with Brexit-related activities. Their Brexit taskforce has been particularly involved in consultation on, and the evolution of, the Environment (Principles and Governance) Bill and in relation to the proposed Office for Environmental Protection. Members of UKELA have given evidence to the EFRA Committee and to the House of Lords Energy and Environment Select Committee, presented at various conferences and seminars and participated in DEFRA's stakeholder workshops on these areas.

The specialist working groups have also remained active. On 2<sup>nd</sup> April 2019, the waste working group is holding a seminar "exploring the pathway to a circular economy" and on 4<sup>th</sup> July 2019 the planning and sustainable development groups is holding a joint event with the British Geological Survey on "exploring storage of energy in underground strata".

UKELA's annual conference is on 28<sup>th</sup> to 30<sup>th</sup> June 2019. This year, UKELA have moved away from a fixed theme to allow for a more varied programme. One plenary session that may be of interest to NBF is "Regeneration of industrial heartlands – how remediation can transform and create aspirational places."

All details are on UKELA's website: [www.ukela.org](http://www.ukela.org). All were reminded that UKELA activities are not exclusively for lawyers, membership of UKELA is open from all sectors.

## **EIC**

Jane Thrasher (JT) provided an update on behalf of EIC. She confirmed that EIC Contaminated Land Working Group met on 6th March 2019. Their main topics of discussion were Asbestos in Soils, the Definition of Waste Development Industry Code of Practice (DoWCoP), and the Building on Brownfield campaign.

Steve Forster of the Asbestos in Soils Joint Industry Working Group provided a general progress update which was appreciated by members. A point of discussion was the poor results of a recent HSL round robin and the lack of laboratory uptake of the SCA Blue Book method in its entirety, leading to inconsistent quantification results. EIC members discussed the unwillingness of laboratories to update their Standard Operating Procedures (which would then need to be reaccredited through UKAS) because of the commercial pressures (both cost and time). EIC agreed the need for those procuring soil asbestos screening and quantification to specify the required detection limits for asbestos and check the laboratory Proficiency Testing records demonstrate these can be met.

Members expressed their disappointment that neither the EA nor CL:AIRE had been able to attend the EIC working group meeting (which was due to a communication error about meeting dates) to discuss their concerns over the DoWCoP FAQs, in particular around Gate Fee. JT confirmed that EIC will be writing to EA and CL:AIRE expressing their specific concerns on this matter.

EIC continue to promote their 'Building on Brownfield' initiative and we will be developing a public affairs strategy.

## **SoBRA**

Alex Lee (AL) provided an update of activities on behalf of SoBRA.

AL confirmed that the new executive committee met in January 2019 to agree a series of objectives for delivery in 2019. AL confirmed that SoBRA has published three Practical Tips Documents on: Controlled Waters, Human Health and Vapour intrusion. All three documents are free to download:

Human Health Tips: [https://sobra.org.uk/?pmpro\\_getfile=1&file=2018/12/Tips-to-Share-HHRA&ext=pdf](https://sobra.org.uk/?pmpro_getfile=1&file=2018/12/Tips-to-Share-HHRA&ext=pdf)

Controlled Waters Tips: [https://sobra.org.uk/?pmpro\\_getfile=1&file=2018/12/Tips-to-Share-Controlled-Waters&ext=pdf](https://sobra.org.uk/?pmpro_getfile=1&file=2018/12/Tips-to-Share-Controlled-Waters&ext=pdf)

Vapour Intrusion Tips: [https://sobra.org.uk/?pmpro\\_getfile=1&file=2018/12/Tips-to-Share-Vapour-Intrusion&ext=pdf](https://sobra.org.uk/?pmpro_getfile=1&file=2018/12/Tips-to-Share-Vapour-Intrusion&ext=pdf)

Work continues on the Soil Vapour Intrusion Risk Assessment and discussions are still continuing with the Energy Institute to work jointly on a collaborative project looking at vertical screening for vapour intrusion.

A new NAPL subgroup has been established and the terms of reference have been developed. Its aim will be to avoid reproducing the wealth of existing NAPL guidance but provide clear pragmatic practical advice.

AL confirmed that SoBRA has committed to two early careers conferences, one in the Winter and another in the Summer. They plan to duplicate the conference but in different locations (north and south). SoBRA will also be supporting RemSoc and the Geological Society with the October 2019 conference.

SoBRA continue to have a standards subgroup that all SoBRA members are part of, but members are overwhelmed by the number of consultations and SoBRA struggle to get constructive feedback.

Asbestos Subgroup is continuing to focus its work on field and laboratory analysis and the reporting and interpretation of that data – recognising that this is a critical step in risk assessment, and that currently there is a big variation in laboratory methods and data reporting.

### **GEOLOGICAL SOCIETY**

Paul Nathanail (PN) attended on behalf of the Geological Society. He confirmed that the Geological Society has a number of events that will be of interest to contaminated land practitioners.

#### **1 & 2 May 2019, Hydrogeology of superficial deposits – half a day on contamination;**

<https://www.geolsoc.org.uk/Hydro-The-Hydrogeology-of-the-Superficial-Deposits>

Covering current practice and future challenges in the management of superficial aquifers in the UK and elsewhere, the conference is split into half-day themed sessions as follows:

- Geology and water resources (Day 1, morning session)
- Natural flood management and wetland / hydroecology support (Day 1, afternoon session).
- Anthropogenic physical influences, including engineering and quarrying (Day 2, morning session).
- Contaminated land (Day 2, afternoon session).

#### **4 June 2019: CL-EGGS Day Meet: The Engineering Geology of Contaminated Land**

- Including risk perceptions –contamination versus geotechnical risks;
- Increasing early career focus (eg Contaminated Land Specialist Group);

In addition, PN explained that the Geological Society are running careers days in Edinburgh (BGS), Nottingham (BGS) and London (Imperial). These are very well attended and lots of enthusiasm from final year students which bodes well for the sector. The event includes specific presentations on contaminated land and brownfield redevelopment.

Finally, 2019 is the Year of Carbon. As a result, workshops are being hosted at gas works museums on 22 June 2019 in Northern Ireland; dates to follow for Scotland and England.

NH also stated that she is on the Quarterly Journal of Engineering Geology and Hydrogeology (QJEGH) a Geological Society publication and they are always actively looking for papers and case studies on land contamination and hydrogeology aspects.

Further information is available:

<https://www.geolsoc.org.uk/Publications/Journals/Quarterly-Journal-of-Engineering-Geology-and-Hydrogeology>

PN confirmed that he has just had a publication published in QJEGH – Contaminated Land and the QJEGH 1976-2017 and beyond which has an interesting table mapping key land contamination events in the UK such as publication of key guidance etc. <https://qjugh.lyellcollection.org/content/early/2019/03/19/qjugh2018-055>

### **RICS**

NH confirmed that RICS has now become a corresponding member of the NBF and will feed through information that NBF members may be interested in. Fiona Mannix confirmed that RICS has recently published their Land Journal on Natural Capital. This is available to be downloaded here:

<https://www.rics.org/uk/news-insight/publications/land-journal/land-journal-march-april-2019/>

## **Home Builders Federation (HBF)**

No update was provided at the meeting due to change of personnel at HBF.

## **SAGTA**

Doug Laidler (DL) provided an update on behalf of SAGTA on their current activities.

### **The C4SL Phase 2 project.**

The project continues to progress with oversight by the Project Steering Group undertaken on a monthly basis. SAGTA has produced an end of year (2018) project summary sheet describing progress over the last year. This can be downloaded here:

<https://www.claire.co.uk/component/phocadownload/category/26-landforum?download=676:c4sl-sagta-dec-2018-update>

### **The SAGTA / Environment Agency 2018 collaborative Workshop: “Guiding Principles for Land Contamination: Lessons and Approaches for a Second Generation and Beyond”**

Following its November presentation to NBF, a measure of sector response to SAGTA's conclusions has been received. However, SAGTA is conscious that a wider response is needed to better establish industry's view on the range of issues that are regarded as relevant. SAGTA has also continued to formulate its articular thoughts on how such an initiative might progress.

### **Participation initiatives**

SAGTA continues to participate in working and steering group activities.

- Guidance update development – *Comparing Soil Contamination Data with a Critical Concentration*
- JAGDAG (Joint Agencies' Groundwater Directive Advisory Group)
- SuRF(UK)
- Asbestos Joint Industries Working Group (JIWG)

### **Forward planning**

SAGTA has been undertaking its initial thinking on the potential for a workshop similar in structure to its *Guiding Principles* event on: *Advancing Regulatory Engagement: Drawing on Lessons from Experience*.

2020 will mark SAGTA's 25th anniversary of its formation as an association.

## **Yorkshire and Lincolnshire Pollution Advisory Group (YALPAG)**

Stella Keenan (SK) provided an update on behalf of YALPAG. She confirmed that YALPAG members recently had a conference day with the EA about “Raising awareness about groundwater” and have an upcoming training day on controlled waters planned for 7 May 2019. Further LAs from Norfolk have requested that their logos are included on the YALPAG planning guidance. Regarding NQMS reports, no officers present at the YALPAG meeting that took place on 27 March 2019 had seen a report that had come through the planning application process and therefore were unable to provide feedback.

## **Lancashire Contaminated Land Officer Group (CLOG)**

Mark Edwards (ME) confirmed that the Lancashire CLOG will be meeting on 11<sup>th</sup> June 2019 to have a presentation about Definition of Waste: Development Industry Code of Practice.

ME had also recently attended the Cumbria and Manchester CLOG groups.

## **CL:AIRE**

NH provided an update on behalf of CL:AIRE. She confirmed the following activities CL:AIRE was undertaking.

### **Definition of Waste Code of Practice (DoW CoP)**

An updated document is being worked on and is currently awaiting EA feedback. CL:AIRE continues to focus on raising standards within the current process and procedures as there is still poor practice being undertaken. An exam for all new QPs and existing QPs was launched in January 2019. CPD is also now a requirement for all QPs to demonstrate that they are maintaining their knowledge and expertise on the DoWCoP. Submission of verification reports on time is improving and CL:AIRE is currently auditing projects is currently underway.

### **Asbestos in Soil**

CL:AIRE continues to deliver a wide range of asbestos in soil training courses, including asbestos awareness (classroom and elearning); CAR-SOIL and Non Licensed Work for Land Professionals. Recently CL:AIRE launched a new course Non Licensed Work for Groundworkers.

### **Sustainable Remediation Forum-UK (SuRF-UK)**

SuRF-UK steering group is currently finalising the development of an animation explaining sustainable remediation. A public consultation on updating Annex 1 – Indicator sets to support the SuRF UK framework was carried out in January, and we are currently reviewing this information. Finally, a paper (open sourced) has been published in Remediation Journal on “Debunking the Myths about Sustainable Remediation” <https://onlinelibrary.wiley.com/doi/full/10.1002/rem.21587>

### **International SuRFs**

CL:AIRE continues to support SuRF international where three times a year the different foras have a teleconference to share activities. CL:AIRE is co-ordinating a joint Special Session on Progress of Sustainable Remediation at AquaConsoil 2019 with the support of a number of international SURF representatives.

### **C4SL**

CL:AIRE is project managing the C4SL project on behalf of SAGTA. NH confirmed that progress is being made with a huge amount of goodwill being giving by all parties. Currently all five batches of substances are now being worked on and are in various stages of progress. Currently from batch 1 VC and TCE reports have been prepared, reviewed by the steering group and amendments are currently being made. These will be the first two reports to be sent to the steering group for sign off.

### **Verification of Gas Protection Accreditation Scheme**

A proposed accreditation scheme has been developed with a small industry group made of practitioners and regulators wishing to raise standards across the industry. An explanatory document outlining how such a scheme could work along with a public consultation document will be launched at the end of March 2019 to get feedback and see if there is the appetite within industry and regulators for such a scheme.

### **Natural Source Zone Depletion Project**

CL:AIRE continues with a research project on Natural Source Zone Deletion (NSZD). A technical bulletin has been drafted and reviewed by the TRG and amendments are currently being made.

### **INSPIRATION Project**

The EU funded Marie Skłodowska-Curie innovative training network on the theme of sustainable agriculture is now in its final year. CL:AIRE is supporting as a knowledge

transfer partner and will be publishing a number of bulletins from the project. Further information is available: [www.inspirationitn.eu](http://www.inspirationitn.eu)

### **Bulletins**

CL:AIRE recently published bulletin TB18 titled: “Continuous Ground gas Monitoring and the lines of Evidence Approach to Risk Assessment” <https://www.claire.co.uk/component/phocadownload/category/17-technical-bulletins?download=665:tb18-continuous-ground-gas-monitoring>

In addition, TB19 “Managing Risks and Liabilities associated with Per and Polyfluoroalkyl Substances” <https://www.claire.co.uk/component/phocadownload/category/17-technical-bulletins?download=668:tb-19-managing-risks-and-liabilities-associated-with-per-and-polyfluoroalkyl-substances-pfass-2019>

Both have been extremely well received by industry and downloaded many times.

### **Events**

CL:AIRE recently hosted a networking event following the SiLC event which was well attended. As it is CL:AIRE’s 20th year, we are hosting a conference on 14<sup>th</sup> November 2019 at ICE where two parallel conferences will be on. One focusing on sustainable use of soils and the other predominantly on innovation and remediation. Speakers have now been confirmed and further details will be announced in the CL:AIRE ealert and on its website. Following the conference and reception will be hosted.

## **8) Update on NPPF legal challenge**

ET provided the NBF an update on the recent NPPF legal challenge and provided the following brief summary note specifically for this National Brownfield Forum meeting.

The High Court heard 2 legal challenges together on 18th – 20th December 2018. It gave judgement in both cases on 6th March 2019. Case references: 1. Friends of the Earth v Secretary of State for Housing, Communities and Local Government [2019] EWHC 518 (Admin) 2. Claire Stephenson v Secretary of State for Housing, Communities and Local Government [2019] EWHC 518 (Admin) The first case, brought by Friends of the Earth, challenged the NPPF as a whole on the basis that it should have been subject to Strategic Environmental Assessment. That claim was unsuccessful as the court held that the NPPF is not a “plan or programme” within the definition of the SEA Directive. The second challenge, brought on behalf of Talk Fracking, challenged only paragraph 209a of the NPPF, under the heading “oil and gas exploration and extraction”. Para 209a reads as follows: “209. Minerals planning authorities should: a) Recognise the benefits of on-shore oil and gas development, including unconventional hydrocarbons, for the security of energy supplies and supporting the transition to a low carbon economy; and put in place policies to facilitate their exploration and extraction.” This challenge succeeded on two related grounds. The court held, first, that the Secretary of State failed to carry out a lawful consultation exercise in relation to paragraph 209a. The paragraph was a straight “cut and paste” from the 2015 WMS and there had been no intention to consult on, or review, the substance of the policy as part of the wider consultation on the NPPF. That is not necessarily an unlawful approach. However, the position should have been – and was not made clear to the public in the NPPF consultation documentation. Talk Fracking, understanding the policy to be part of the consultation, made representations on it but those representations were not considered and couldn’t have made any difference to whether the policy was, or was not, adopted. Secondly, the court found that having given the public to believe that the substance of the policy was within the scope of the consultation, and, having received relevant scientific and technical evidence from Talk Fracking, the Secretary of State should have – but failed to – take that material into account. The judgement concludes by allowing the parties time to reach agreement as to what the consequences of the judgement should be. When a court finds a decision or policy unlawful, it tends to quash the decision/policy and send the decision maker away to make its decision again, following proper procedure. ET understand that the Secretary of State is still considering the judgement and that no decision has yet been made as to what should

happen next. However, it may well be there is fresh consultation on paragraph 209a (or, possibly, on a reformulation of the policy). The take away point for the NBF is that, while the policy at paragraph 209a may be subject to further consultation and/or revision, the rest of the NPPF (including the amendments that were made in February 2019) stands.

*The above is a brief summary note prepared for the purposes of the National Brownfield Forum meeting on 21st March 2019. It does not contain definitive advice. Specialist legal advice should be sought in relation to any queries that arise.*

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

Seamus Lefroy-Brooks (SLB) provided an update on the NQMS. He confirmed that 97 SQPs are currently on the register and 65 declarations have now been purchased. SLB confirmed that the EA are seeking feedback from their staff on the declarations that they may have seen. EA confirmed that the update web pages on land contamination will prominently link to the NQMS. SLB confirmed that the next phase is continued promotion of the scheme to other stakeholders. SLB and NH are preparing a simple promotional leaflet with key positive messages that can be shared widely.

The NQMS steering group are now aware of a number of local authorities that have started to signpost to the scheme as a way of demonstrating competency in land contamination and another local authority has encouraged the use of an SQP to help expediate the review process. This is seen as extremely positive.

SLB explained that SQPs are currently being encouraged to promote the scheme and SILC are promoting the scheme to encourage the 50% of SILCs that are not SQPs to convert. It was suggested that the process for transferring to an SQP is quite cumbersome and perhaps SILC could streamline the process? Paul Burden will report back this comment to SILC.

**ACTION: Paul Burden to discuss with SiLC regards the conversion process.**

SLB confirmed that there appears to be a disconnect with Local Authority contaminated land officers and their planning colleagues with some contaminated land officers not receiving the declarations even though the declarations states to pass it on. In light of this, the steering group has made an amendment to require all SQPs to send copies of declarations to the contaminated land officer and EA/NRW officer so they are aware if a declaration has been submitted in their area which hopefully will improve things.

10) Land Development Guidance Road Map

Lucy Thomas invited NBF members thoughts on the proposal to develop a land development guidance road map as a way of moving forward the SAGTA/EA workshop and Frank Evans presentation at the last meeting.

NBF members discussed the concept and felt the idea is good but before resources were spent there needs to be a better understanding of who is it for, what should be included ie all guidance, what has priority on one piece of guidance over another and who makes that decision? How could it remain up to date?

It was felt that CL:AIRE's Water and Land Library (WALL) is already a really useful resource, and so could this be expanded, improved and cover additional areas that are not currently covered? NH explained that WALL can easily be expanded as long as groups work with CL:AIRE and identify what needs to be added. For example, Waste is not currently covered. NH explained that WALL is currently made up of links to existing documents and if those documents don't have homes then WALL hosts them. CL:AIRE is reliant on people notifying when something isn't hosted and if a link is broken but it does seem to work. The only problem is that it is very land contamination focussed so those on the periphery of our industry are not necessarily aware of its existence which is where perhaps a simplified road map may help.

There was concern that a road map could become quite unwieldy quickly or would need to be in layers.

It was agreed that perhaps a pilot was carried out on “Waste” and NH creates a Google Form that everyone can work on and add the key documents that they feel are appropriate to include and see how this goes. NH and LT agreed to work this up and share.

**ACTION: NH & LT to work up a “Waste” pilot.**

11) Where do we want to focus our efforts going forward and why?

LT led the discussion on what NBF has achieved to date, what it is currently working on to try and promote discussion about the future, to aide decisions for the future strategy.

It was agreed that a large benefit of attending the NBF was the knowledge sharing between the different groups. It is the only forum that has such a wide spectrum of members and is hugely valuable with the interaction of the regulators and government departments across England and the devolved administrations.

Members would like to encourage government departments to use the NBF more as a sounding board as its membership is wide reaching with >3,000 members. It was acknowledged that engagement with MHCLG has improved.

There was a discussion to not always have the meetings in London. Would it be possible to be hosted in Cardiff, Edinburgh and Belfast as well? A number of members felt that Edinburgh or Cardiff would not be a problem to travel to.

To help focus what activities should be addressed going forward, NBF members must seek their members thoughts and send through up to five ideas. LT and NH will collate these and develop a picture of different activities.

**ACTION: ALL to prepare a list of up to five areas for NBF to move forward on.**

It was also agreed that all members need to prepare a short report of their organisation’s activities before each meeting. NH can share with the papers, and members can ask questions. This will free up time for discussion. NH to prepare a template for people to use.

**ACTION: ALL to prepare summary of activities ahead of each meeting and read other peoples before coming to the meeting so we are all ready to discuss themes**  
**ACTION: NH to prepare a template and circulate**

12) AOB

Paul Burden shared that MoD and Homes England have now signed an MoU to transfer redundant MoD land to Homes England for development.

13) Date and location of next meeting

NH confirmed the next meeting will be held in 4<sup>th</sup> July 2019 at WSP’s office, London.