



Why have an Environmental search?

On the basis of research on historic and current land use, the Environment Agency has estimated that there are 325,000 potentially contaminated sites in England and Wales, of which some 33,500 are considered to require remediation (the removal of contaminants). The types of activities that help to make up this estimate include petrol stations and garages, gas works, waste treatment sites (including landfills) and engineering works. Of those sites where remediation is necessary, it is often the case that contamination has migrated, or is at risk of migrating, off-site, so as to affect neighbouring properties and the wider environment. A classic example is this is landfill gas and/or leachate, which are sometimes known to migrate over 500 metres from its source, posing risks to human health and groundwater. Similarly, spillages of solvents from engineering sites can percolate through to groundwater beneath a site and then be carried off-site through groundwater flow.

The legislation for dealing with contaminated sites (the contaminated land regime) has been in force in England since April 2000 (July 2001 in Wales). While the contaminated land regime applies to all types of land, many of the sites on which the regulators have focused have been former industrial sites that were developed into residential use between 1960 and 1990. These sites often lacked any proper site investigations and formal remedial works were seldom carried out, leaving the residents at risk. No doubt there are many other such developments where contamination has yet to be discovered.

The local authority search (local search) contains a question as to whether an entry relating to the land appears on the local authority's contaminated land register. The reply is usually negative. This does not necessarily mean that the land is not contaminated. It usually means, instead, that the land has not been inspected for contamination or that contamination is present on the land but is not sufficiently serious to fall within the statutory definition of contaminated land. The reality is that local authorities have designated only a small number of properties as falling within the statutory definition. Most potentially contaminated sites

have still to be inspected by the relevant local authority.

The contaminate land regime covers both future and past contamination. A property owner may be liable for costs of remediation, even if not responsible for the original contamination.

The searches used are 'desktop reports', produced through the assessment of electronic data and maps (both historic and current), from which an overall assessment of potential contaminated land liabilities can be made. An experienced environmental consultant will review both sets of information. The report will contain a certificate as to the likelihood of the property being described as contaminated land, and is backed up by a professional advice service. If a clear certificate cannot be given however, more enquiries will usually have to be made via the local authority and additional fees may be charged for this. Obtaining a clear search result provides a buyer with the security that, on a future sale, these issues will not delay the transaction.

Wards Solicitors conveyancers recommend this search, which also contains a flood risk review. This can then be used to assess whether a Flood Search is also required.

We advise our clients that this is an optional search but, if they proceed without it, they accept the risk in this respect. As always, prospective clients should keep in mind that the cost of the search is relatively small against the property investment being made.

For more information on Environmental Searches please contact Rebecca Stuart at Rebecca.Stuart@wards.uk.com

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This guide is not intended to be definitive or to act as a substitute for legal advice.