

# Report

8

Report to:	<b>Community Resources Committee</b>
Date of Meeting:	<b>12 July 2011</b>
Report by:	<b>Executive Director (Community Resources)</b>

Subject:	<b>Designation of a Contaminated Land Site at Whitelees Road, Lanark as required by Part IIA of the Environmental Protection Act 1990</b>
----------	---

## 1. Purpose of Report

1.1. The purpose of the report is to:-

- ♦ provide details of the first site, within South Lanarkshire, to be declared a contaminated land site in terms of the Environmental Protection Act 1990.

## 2. Recommendation(s)

2.1. The Committee is asked to approve the following recommendation(s):-

- (1) that, in terms of Part IIA of the Environmental Protection Act 1990, the site at Whitelees Road, Lanark be declared as a contaminated site.

## 3. Background

3.1. In 2000, a new statutory regime came into force. The Environment Act 1995 modified the Environmental Protection Act 1990 with regard to the regulatory powers available to local authorities for dealing with contaminated land, by inserting a new part (Part IIA) to deal specifically with this problem.

3.2. The Council's duties under Part IIA can be summarised as follows:-

- ♦ To inspect their areas to identify any contaminated land
- ♦ To determine whether a particular site meets the statutory definition of contaminated land
- ♦ To establish the responsibilities for remediation of the land
- ♦ To ensure that appropriate remediation takes place
- ♦ To keep a public register detailing the regulatory action which they have taken under the new regime

3.3. Implementation of the contaminated land regime by Waste and Environmental Services is progressing well. 85% of approximately 5,800 potentially contaminated land sites, identified by risk modelling, in South Lanarkshire have now been inspected at a screening level to determine whether there is a requirement to progress to intrusive site investigation.

3.4. The intrusive investigation at Whitelees Road identified contaminants primarily in the form of waste oils and other residues associated with a former shale oil refining work which formerly occupied part of the site during the late 19<sup>th</sup> Century. These contaminants have entered the groundwater, to the extent outlined in Appendix A, and their impact is considered as significant from a legislative point of view.

- 3.5. The statutory guidance issued in terms of the legislation requires “a source, pathway, receptor” test to be established before a site can be considered for declaration. This has been established by physical testing, and also that the pollution of the ground water is significant in terms of the legislation.
- 3.6. It should be noted that legal liability for contaminated land lies with the person(s) who knowingly cause or permitted the contamination to arise in the first instance and that such persons are classified legislatively as liability Group A. Group B liability relates to those who did not cause or permit the contamination but merely occupy the site. In addition, with regard to groundwater contamination, Group B liability class, which is the case at Whitelees Road, have no legal liability in relation to the contamination issue or its remediation.
- 3.7. In terms of the legislation, the Council is responsible for the investigation, designation and securing remediation of the majority of contaminated land sites in South Lanarkshire. However, it should be noted that the former industrial land use causing the contamination at Whitelees Road dictates that the site requires to be designated a Special Site in terms of legislation. Regulation 2(c)(i) of the Contaminated Land (Scotland) Regulations 2000 specifically states that contamination as a result of the purification of oil extracted from shale is a Special Site and that the regulation of such sites is the responsibility of the Scottish Environmental Protection Agency (SEPA) from a regulatory point of view once they are declared.

#### **4. Employee Implications**

- 4.1. There are no employee implications as the work will be carried out from existing resources.

#### **5. Financial Implications**

- 5.1. The cost of this designation process will be met from the existing budget.
- 5.2. Further regulatory activity in relation to the site will be the responsibility of SEPA as a consequence of its “Special Site” status.

#### **6. Other Implications**

- 6.1. The actions proposed in this report support the objectives of the Council’s Sustainability Development Strategy by safeguarding environmental condition.
- 6.2. The actions proposed are within the remit of the Service and are, therefore, covered by existing risk management arrangements.

#### **7. Equality Impact Assessment and Consultation Arrangements**

- 7.1. There is no requirement to carry out an impact assessment in terms of the proposals contained within this report.
- 7.2. This report has involved consultation with SEPA. A communication strategy has been prepared in order to advise residents and businesses potentially affected by the decision to designate this site.

**Norrie Anderson**  
**Executive Director (Community Resources)**

10 June 2011

**Link(s) to Council Objectives/Values/Improvement Themes**

- ◆ Improve the Quality of the Physical Environment
- ◆ Improve Health and increase Physical Activity
- ◆ Vision and Strategic Direction (Sustainable Development Priority)

**Previous References**

None

**List of Background Papers**

- ◆ Part IIA of the Environmental Protection Act 1990
- ◆ South Lanarkshire Council's Contaminated Land Strategy
- ◆ Communication Strategy for Whitelees Road, Lanark

**Contact for Further Information**

If you would like to inspect the background papers or want further information, please contact:-

Jim Stirling, Environmental Services Manager

Ext: 6901 (Tel: 01355 806901)

E-mail: [jim.stirling@southlanarkshire.gov.uk](mailto:jim.stirling@southlanarkshire.gov.uk)

Figure 1: Part IIA Special Site  
Town: Whitelees Road, Lanark

Scale 1:2,500

