



## **LAND CONTAMINATION STRATEGY**

### **Environmental Protection Act 1990 Part IIA**

**Adopted 2001  
Revised 2010**

Change and Environmental Services  
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**Maidstone Borough Council  
Land Contamination Strategy  
Environmental Protection Act 1990 Part IIA**

**Foreword to revised strategy**

Legislation for dealing with contaminated land issues, set out in the Environmental Protection Act 1990, came into force on 1<sup>st</sup> April 2000. These laws placed a statutory obligation on local authorities to address land contamination issues in their area and set-up and maintain a register of details of any land classed as 'contaminated land'.

One of the first tasks required from the new legislation was the requirement of a strategic framework of how the local authorities intended to implement the new statutory obligations. This strategy was therefore produced in response to statutory requirements and sets out how Maidstone Borough Council plans to address and remedy land contamination issues within its borough.

The original strategy was adopted in July 2001, following consultation. This revised strategy takes into account the Radioactive Contaminated Land (Modification of Enactments) (England) Regulations 2006, which have modified the definition of contaminated land, and both the progress and experience in the eight years since the strategy was first adopted.

Signed .....

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Director of Change and Environmental Services

Land Contamination Strategy  
May 2010

This document was circulated to statutory consultees as required by the Act.

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**Maidstone Borough Council  
Land Contamination Strategy  
Environmental Protection Act 1990 Part IIA**

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## 1.0 Introduction

1.1 A new regime for addressing the issues of contaminated land, set out in the Environmental Protection Act (EPA) 1990 (Pt IIA, ss. 78A-78YC) came into force on 1<sup>st</sup> April 2000. The duties laid on the Local Authority may be summarised as follows:

- *To cause its area to be inspected from time to time to identify contaminated land.*
- *To decide whether such sites are "Special Sites", for which the enforcement responsibility passes to the Environment Agency.*
- *To secure the appropriate remediation of contaminated land.*
- *To maintain a register of contaminated land.*
- *To act in accordance with guidance issued by the Secretary of State, whereby the strategy should be:*
  1. *transparent and consistent*
  2. *rational, ordered and efficient*
  3. *proportionate to the seriousness of risk*
  4. *seeking to ensure that the most serious and pressing problems are located first*
  5. *ensuring resources are concentrated on areas most likely to contain contaminated land and,*
  6. *ensuring requirements for detailed inspection are efficiently identified.*

1.2 Part 2A of the Environmental Protection Act 1990, which came into force in 2000, requires Local Authorities to identify contaminated land in their areas, ensure it is remediated, and make the "polluter" pay wherever possible. Part 2A is primarily intended to be used only where the "market" does not provide a solution. Part 2A also plays an important indirect role by encouraging market solutions (i.e. the presence of legislation which could force action often provides a strong incentive for polluters and landowners to take action voluntarily) (DEFRA: Soil Strategy, 2009)

The Secretary of State's guidance requires the Local Authority to take a strategic approach to its duties and for that purpose, to adopt and publish a written inspection strategy. Maidstone Borough Council's original strategy was published in July 2001.

1.3 In addition, this document also sets out the relationship between the Council's responsibilities under this regime for contaminated land and its interests in land contamination issues under other powers, in particular, as Local Planning Authority, Building Control and as a landowner.

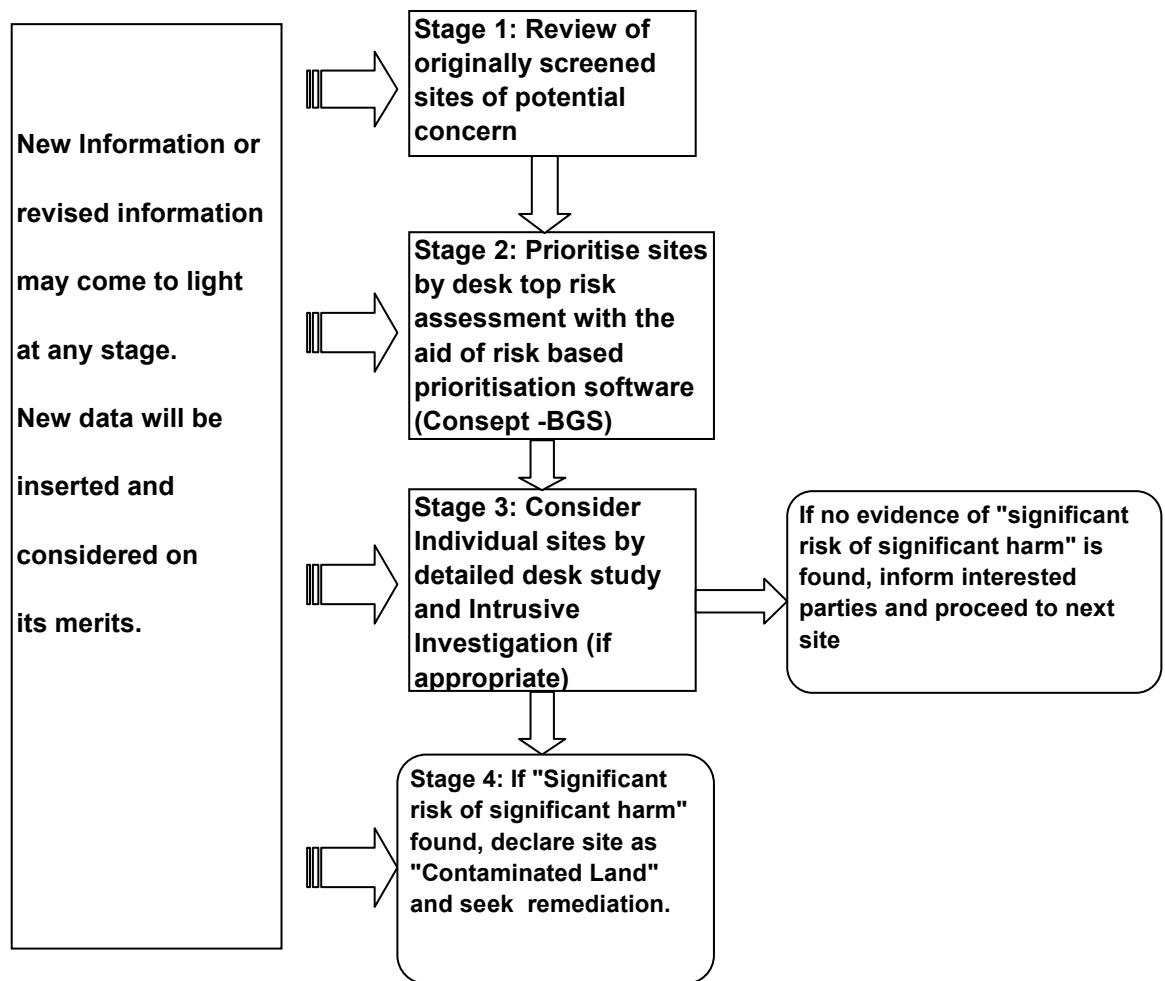
- 1.4 Throughout this document the term "Contaminated Land" is used in its strict legal sense. There are other circumstances where the contamination of land is also an important issue, for example, in considering the change of use of land. In such circumstances, the term "land contamination" is used.
- 1.5 Other controls available to enforcement authorities may include:
- A) Environmental Permitting Regulations (England and Wales) 2007 (EPR), which provide an integrated approach to the control of environmental impacts associated with industrial activities.
  - B) Environmental Damage Regulations 2009 (EDR), which provide powers to protect and remediate sites that are currently being polluted or are under threat of being polluted.
  - C) Town and Country Planning Act 1990, which provide processes to ensure development is fit for its purpose.
  - D) Building Regulations Approved Documents.

These may be more appropriate in controlling current industrial practices and/or any economic activity in the prevention of land contamination. Where other legislation may be more appropriate these shall be used.

## **2.0 Overall aims and objectives of the Strategy**

- 2.1 The aim of this strategy is to outline measures for identifying, classifying and remediating contaminated land, commencing with the prioritisation of sites for detailed consideration and continuing through that detailed consideration.
- 2.2 A Risk Assessment approach will be adopted throughout the process. The main objective of the Risk Assessment approach will be to identify risk to human health, protected ecosystems, controlled waters and the wider environment.
- 2.3 The Council aims to implement this regime in an open manner and consult with relevant stakeholders and consultees on matters of intrusive inspection, contamination or remediation.
- 2.4 Appropriate measures will be taken, as detailed in section 8, where the Local Authority is found to be a Class A or B person following the identification of contaminated land, or where the site is an 'orphan site'.
- 2.5 The inspection or remediation of any potentially contaminated land should not result in harm to ecosystems and/or other nature conservation sites.
- 2.6 Information held by the Local Authority will be periodically reviewed and updated.
- 2.7 The Approach adopted by this Authority from the date this strategy is adopted is shown in outline in the following flowchart:

### **Flow Chart of Review and Assessment Process**



### **3.0 Definition of Terms**

A selected group of terms is described below in order to enhance the readability of this document. In case of doubt, however, the definitions in the primary legislation should be used.

#### **◆ Contaminated Land**

*Any land which appears to the Local Authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land, that:*

- *Significant harm is being caused or there is a significant possibility of such harm being caused, or;*
- *Pollution of controlled waters is being, or is likely to be, caused.*

## **Notes on the definition of Contaminated Land**

For a site to meet the statutory definition of "contaminated land" a significant pollutant linkage (SPL) must first be identified. A SPL consists of three elements:

- A source of contamination in, on or under the ground.
- A receptor of a type specified in the regulations.
- A pathway by, or through, which the receptor is being exposed to or affected by a contaminant or could be so exposed or affected, or whereby the pollution of controlled waters is being, or likely to be, caused.

Secondly, once a SPL has been established, the Local Authority must be satisfied that the linkage is resulting, or presents a significant possibility, of significant harm being caused to the receptor, or is resulting in or is likely to result in the pollution of controlled waters.

Where the existence of both steps is established, the Local Authority is required to designate the site as "contaminated land".

### ◆ **Special Site**

*Contaminated land which falls within certain particular descriptions must be designated a "special site" by the Local Authority. The effect of designation is to make the Environment Agency, rather than the Local Authority, the enforcing authority for the land.*

### ◆ **Class A Person**

*A person who has caused or knowingly permitted a pollutant to be in, on or under the land.*

### ◆ **Class B Person**

*A person who is the owner or occupier of the land in question in circumstances where no Class A person can be found.*

### ◆ **Orphan Site**

*A site for which no Class A or Class B person can be found.*

### ◆ **Contaminant**

*A substance which is in, on or under the land and which has the potential to cause harm or to cause pollution of controlled waters.*

### ◆ **Receptor**

*Either:*

*A living organism, a group of living organisms, an ecological system or a piece of property which is in a category listed in Table A, Chapter A of the statutory guidance and is being, or could be, harmed, by a contaminant; or*



*Controlled waters which are being, or could be polluted by a contaminant.*

◆ **Controlled Waters**

*Has the same meaning as in the Water Resources Act 1991, Section 104.*

These include:

- Territorial Waters
- Coastal Waters; the sea within the baseline up to the line of highest tide and tidal waters up to the fresh water limit.
- Inland waters; any lake or pond or rivers or watercourses above the freshwater limit.
- Groundwater; as defined in Section 86 of the Water Act 2003 and does not include waters above the saturation zone of underground strata.

◆ **Harm**

*Harm to the health of living organisms or other interference with the ecological systems of which they form part and, in the case of man, include harm to his property.*

◆ **Pathway**

*One or more routes or means by or through, which a receptor is or could be exposed to, or affected by, a contaminant.*

**4.0 The Maidstone Borough Council area - All maps referred to can be found in Appendix D.**

- 4.1 The Borough of Maidstone covers an area of approximately 152 square miles. Maidstone itself, the County town of Kent, is the major settlement in the Borough. It has a population of approximately 142,800 people and comprises one main urban area, located to the north west of the Borough. together with a large number of large and small villages located in its extensive rural hinterland (see maps 1 & 2).
- 4.2 There are 40 villages within the extensive rural hinterland to the North, south and east (see maps 1 & 2). The character of the built and natural environments vary considerably across the Borough.
- 4.3 Ecologically, the Borough has a number of sensitive sites. There are 9 areas designated as Sites of Special Scientific Interest (SSSIs) which includes the River Beult in the Low Weald and areas of the North Downs. A further statutory designation is the North Downs Woodlands candidate Special Area for Conservation (SAC), which hosts wildlife or habitat deemed to be of international importance. There are also two designated nature reserves, Vinters Valley Park and Boxley Warren.

The landscape itself is of a high quality. This is recognized in the designation of the North Downs as an Area of Outstanding Natural Beauty (AONB), and the definition of additional Special Landscape Areas within the Weald by Kent County Council. All these designations along with Local Wildlife Sites (LWS – formerly Sites of Nature Conservation Importance (SNCI)) can be found in Appendix D, Map 3.

- 4.4 The Borough contains substantial areas of high-grade agricultural land, and areas of Grade 1 (highest quality) extend along the Medway Valley to the west of the town. There is an extensive network of rivers, consisting principally of the Beult and Teise which then feed into the Medway at Yalding. The River Len runs from Lenham into Maidstone from the east, passing through Mote Park and entering the Medway near to the Archbishop's palace. In former times it was used as a transport route to industries situated on its banks. Today, the river network, as shown in map 4, is used for drinking and commercial abstractions.
- 4.5 Domestic water supply in the district is also abstracted from underground, and Source Protection Zones are in place to protect vulnerable groundwater areas, as indicated in map 4. Information on aquifer protection is held by the Environment Agency and will be considered as part of the process in identifying Part IIA sites.
- 4.6 The quality and protection of the built environment is also an important consideration for the Council. The urban wards contain 329 listed buildings. Six conservation areas are within or adjoining the town centre. There are 35 village conservation areas and the rural parishes contain 1,687 listed buildings and 28 Scheduled Ancient

Monuments (Map 5). It is vital that new development maintains and enhances the amenity of the built up areas to protect the quality of life for existing residents.

- 4.7 The geology of the area is varied. To the north is the chalk escarpment of the North Downs which runs across the Borough from west to east. To the south, running through the centre of the district, is a smaller escarpment formed by the Hythe beds of the Lower Greensand. There is a broad band of Weald clay across the southern portion of the Borough interspersed with the Hastings Beds. The Folkestone beds, which form the third major aquifer in the Maidstone area, are situated to the north-east of the Borough and run parallel with the Hythe beds. This information is illustrated in map 6.
- 4.8 Maidstone was awarded its first Royal Charter in 1549, recognition it lost five years later for its part in the Wyatt rebellion. By the mid 18<sup>th</sup> century, however, Maidstone was the official and legal centre of Kent, and a successful industrial town with major brewing and paper-making industries. The area has also been exploited for its minerals, principally chalk for the cement industry, ragstone and river gravels. Many of the holes formed as a result have been used for waste disposal since then.
- 4.7 In October 2006 the government announced that Maidstone Borough was one of 29 areas named as a New Growth Point. The Panel Report into the examination of the South East Plan confirmed this status in July 2007.
- 4.8 Maidstone Borough has direct rail links to London and the proximity of the capital is a factor in shaping the local economy, house prices and travel. Two designated growth areas, Thames Gateway to the north and Ashford to the east, will also have an increasing effect on the economy, environment and growth of Maidstone Borough.
- 4.9 Maidstone also has good transport links to London and the coast via two railway lines and the M20 motorway.
- 4.10 National policies require local authorities to make the best use of previously developed land in urban areas before releasing greenfield sites for development.
- 4.11 Maidstone Borough is therefore attractive both as a place to locate business and as a place in which to live. Development pressure therefore creates conflict with the acknowledged importance of defending the character of the area and avoiding unacceptable damage to the countryside. Accordingly, the task for the planning system is to reconcile the economic and development contribution with the need to protect the public health, the countryside and ecologically sensitive areas.

## **5.0 Internal Management of the Regime**

- 5.1 This review and development of the strategy has been undertaken through consultation with the regeneration and sustainable communities overview and scrutiny committee, MBC management team and review by the contaminated land Working Group (Appendix A).
- 5.2 The Assistant Director of Change and Environmental Services will be responsible for the enforcement aspect of the regime.
- 5.3 There are a number of situations where the Local Authority could be responsible for the remediation of contaminated land, either where the Authority is a Class A person, a Class B person or where the site is an orphan site. In such circumstances, the Director of Change and Environmental Services will act for the Local Authority.
- 5.4 This regime takes into consideration current use of land. Where a change of use and/or development is proposed, land contamination issues will properly be considered through the planning process.

The Government has a "suitable for use" policy on redevelopment of land as given in the Statutory Guidance; Planning Policy Statement 23: Development Control and Pollution Prevention states that as a minimum, after carrying out the development and commencement of its use, the land should not be capable of being determined as contaminated land under Part IIA of the EPA 1990. The developer will need to consider contamination issues and not introduce pathways or receptors that could cause the land to be determined as contaminated land. The developer should consider users of the site and the wider environment.

The Building Regulations also require consideration of land contamination issues not only directly under the footprint of the building but also the land surrounding the building.

## **6.0 The Roles of the Borough Council and the Environment Agency**

- 6.1 Local Authorities have been given the primary regulatory role under the Part IIA regime. The Local Authority has the following specific duties:
  - to cause their area to be inspected for contaminated land;
  - to determine whether any particular site meets the statutory definition of contaminated land and to set up and maintain a register containing certain information relating to such land and
  - to act as enforcing authority for all contaminated land, unless the authority determines that the site is a "special site", in which case enforcement is passed to the Environment Agency.

- 6.2 The Environment Agency has particular duties and powers under Part IIA, including:
- providing information to the local authority on contaminated land;
  - ensuring the remediation of Special Sites;
  - maintaining a register of Special Sites remediation;
  - preparing from time to time a national report of the state of contaminated land in England and Wales;
  - providing site specific advice to local authorities on pollution of controlled waters and
  - providing site specific guidance to local authorities on Contaminated Land.
- 6.3 Maidstone Borough Council will continue to build on the existing good working relationship with the Environment Agency. As advisors to local authorities in matters relating to contaminated land, and regulators of Special Sites and controlled waters, the Agency play a key role in the statutory obligations of local authorities under the Part IIA regime.
- 6.4 The Agency will be notified as soon as is practicable should the local authority become aware of any site which may be classed as a Special Site. In such circumstances, the Agency will be invited to attend a joint site inspection and carry out sampling of the site on behalf of the local authority. Close liaison will continue throughout the process of verification until it becomes clear as to who should become the regulatory body in such a case.
- 6.5 The Agency will be notified as soon as is practicable should the local authority become aware of any known or suspected water pollution incidents or ongoing situations. In such circumstances, the Agency will again be invited to attend a joint site inspection and carry out sampling of the site on behalf of the local authority. Close liaison will continue until the cause and effect of the pollution incident or situation is remediated.

## **7.0 Land Contamination and Planning**

- 7.1 The Borough Council recognises the value of development as a means to achieving remediation of land contamination. The Borough is committed to the appropriate redevelopment of previously used land (brownfield development) in accordance with policy guidance.
- 7.2 The Environmental Health Manager will continue to act as an internal consultee to the Development Control Manager on land contamination issues. Arrangements will be made to ensure that the existence of information held by either Manager will be brought to the attention of the other.
- 7.3 If a site is considered for development, either through the Local Plan process or through an application for planning permission, which has

a land contamination issue, the proposed developer shall be informed of the issue.

- 7.4 In line with Planning Policy Statement 23: Planning and Pollution Control (Annex 2: Development on Land Affected by Contamination), the developer is responsible for ensuring that development is safe and suitable for use for the purpose for which it is intended. The developer is therefore responsible for assessing whether land is suitable for a particular development or can be made so by remedial action. Supplementary Guidance has been produced which will assist potential developers to address the issue effectively. The Borough Council will facilitate developers by providing such information as is available to it, unless the information has been supplied subject to commercial confidentiality.
- 7.5 Where appropriate Section 106 agreements will be sought for remediation of land in addition to the use of conditions.
- 7.6 The Authority will continue to monitor the effectiveness of remediation proposals and where expedient will ensure that agreed schemes are fully implemented by planning enforcement in accordance with Planning Policy Guidance 18 (PPG 18).

## **8.0 The Local Authority as landowner**

- 8.1 The Local Authority itself owns, or has responsibility for various areas of land. Primarily these comprise:
- Properties, including flats and houses. Currently there are about 65 properties, 20 public conveniences and 143 industrial units owned by the Council.
  - Amenity land including allotments.
  - Recreation land (play areas and public parks)
  - Other land holdings
- 8.2 Council records are predominantly paper based and supported by GIS.
- 8.3 This strategy will inform the asset management plans of the Council through communication via the contaminated land working group (Section 8.5 Maidstone Borough Council Asset Management Report 2008-2011)
- 8.4 The Borough Council will address land contamination issues, principally through the consideration of redevelopment proposals.
- 8.5 The Borough Council has reviewed a number of landfill sites which adjoin housing developments and monitored landfill gas generation at these sites. Remedial works to closed landfill sites in the Council's ownership has also been undertaken.

- 8.6 As previously stated, the overall aim of the strategy is to prioritise inspections based on a simple risk assessment. Nevertheless, Maidstone Borough Council recognises the need to set a good example in its own land holdings. The following specific steps will be taken:
- The authority will consider land contamination issues for any land it is considering acquiring.
  - Sites in the Authorities ownership that are on or within 250 metres of a potential source of contamination will be identified and highlighted to Property Procurement and review of landfill gas requirements will be carried out.
  - Sites in the Authorities ownership that fall within Radon risk areas will be identified and a review of radon requirements will be undertaken in due course.
- 8.7 The Assistant Director of Change and Environmental Services will co-ordinate the investigation of suspect sites in the same way as a responsible private sector landowner might consider its land portfolio and will oversee the responsible management, by the appropriate Head of Service, of those sites found to have contamination issues.

## **9.0 Four Stages of Review, Assessment & Remediation**

### **Urgent Remedial Action**

Where the council receives information which suggests that there may be imminent danger of serious harm or serious pollution of controlled waters is being caused as a result of ground(s) as mentioned in Stage 4 (9.22) urgent remedial action will be undertaken.

Under Section 108(4) of the Environment Act 1995, Authorities have been granted powers of entry to investigate. In normal circumstances at least seven working days' notice will be given of an intention to enter premises, however, in emergency situations where there is likely be an immediate risk to human health or the environment this will not be the case.

Urgent remedial action may include the serving of a remediation notice on appropriate persons. If MBC cannot identify any appropriate person(s) MBC may carry out any urgent remediation itself through carrying out works in default. If this is the case MBC can recoup the cost of carrying out its inspection, assessment and remediation of the land by placing a charge on the land. MBC will take all available measures to recover costs it has incurred as set out in DEFRA circular 01/2006.

### **Stage 1 - Screening**

- 9.1 A review of site prioritisation based on the initial screening in 2001 and progress since will be undertaken:
- 9.2 The screening exercise aims to update the prioritisation working list to ensure that all works carried out on these sites has been recognised and therefore produce an up to date and representative working list. This will be carried out by a recommended external consultant that has experience of this type of review and successfully supported other LA's in this process.
- 9.3 The screening update will produce a methodology that can be used to screen new sites as they become apparent, enabling the Authority to determine whether a new site may potentially be classed as a "Contaminated Land" site under the EPA Part IIA regime in the future and therefore be taken forward into Stage 2.
- 9.4 In the event that a new site is identified and goes through phase I and is not deemed to trigger Phase II, it will be recorded for planning purposes.
- 9.5 Stage 1 will be reviewed on an annual basis to determine whether a re-run of Stage 2 (9.10 CONSEPT) is required.



## **Stage 2: Prioritisation**

- 9.6 The Stage I working list will be run through the Consept (BGS) prioritisation software in order to determine the order in which sites should be taken to more detailed investigation.
- 9.7 The Consept software uses a set of complex algorithms which consider the weighted risk from the sites previous land use, the epoch that the contamination may have taken place, with the underlying geology, the proximity to human receptors, controlled waters, sensitive ecological receptors and sensitive buildings.
- 9.8 The output from the software will then be used to identify sites requiring more detailed inspection in the priority laid out in this strategy.

The Prioritisation hierarchy will be as follows:

- 1) To Protect Human Health
  - 2) To protect controlled waters used for drinking water
  - 3) To protect designated ecological systems
  - 4) To prevent damage to property (in the form of crops, produce, livestock, domesticated animals, wild animals)
  - 5) To prevent damage to property in the form of buildings (including ancient monuments)
  - 6) To protect controlled waters not used for drinking water
- 9.9 Sites are not considered in any depth at this stage of the work unless information is obtained which indicates that harm is being caused and that the site warrants urgent consideration.
- 9.10 At regular intervals the information used to prioritise investigations will be reviewed and the prioritisation of sites updated.
- 9.11 A review of Stage I will be carried out from time to time. If the review identifies sites requiring application of Stage II the CONCEPT model will be re-run to ensure prioritisation has not been altered.
- 9.12 It is recognised that this approach will lead to a "pepperpot" review of the Borough's area. Nevertheless, it does mean that the more important sites are addressed first. If sites are grouped it may be more efficient, or more equitable, if adjacent sites are considered at the same time, nothing in this strategy is intended to prevent such an approach.

## **Stage 3 - Detailed consideration of sites to allow decision on determination.**

- 9.13 When a site is prioritised for investigation the following steps will be taken:

9.14 A Preliminary Risk Assessment (PRA) will be undertaken. Initially, the planning history and any other relevant data readily available will be reviewed before proceeding to next steps. The purpose of the PRA is to develop an initial conceptual model to identify whether or not there are potentially unacceptable risks. At this stage liaison with the Environment Agency will enable a decision to be made as to whether the site is deemed to be a special site. If this is the case the Environment Agency will organise and potentially fund the GQRA and DQRA investigations.

9.15 A communication strategy will be written for the site investigation and will ensure that all interested parties are kept informed of developments.

9.16 The existing owners and occupiers (Class B persons and potential Class A persons) of the land will be identified.

The existing owners and occupiers (Class B persons and potential Class A persons) of the land will be informed and asked to contribute such information as is in their possession to the consideration of the site.

9.17 Any known previous owners or occupiers (potential Class A persons) will also be informed and asked to contribute such information as is in their possession to the consideration of the site.

9.18 Where it is believed that migration of a pollutant may have occurred, owners and occupiers of adjoining sites and relevant parties such as the Environment Agency will also be informed and asked to contribute such information as is in their possession to the consideration of the site.

9.19 In the event unacceptable risks are identified in the PRA, funding for a Generic Quantitative Risk Assessment (GQRA) will be sought.

9.20 The GQRA assessment will establish whether generic assessment criteria and assumptions are appropriate for the site and if so, then to apply them to establish whether there are actual or potential unacceptable risks.

After the GQRA MBC will review the position and decide if further action is required.

9.21 If there is insufficient evidence from the GQRA to allow a decision on whether the site should be determined as 'contaminated land', then a Detailed Quantitative Risk Assessment (DQRA) will be undertaken.

#### **Stage 4: Determination and Remediation**

9.22 If the site is considered to be "Contaminated Land" by satisfying any of the following criteria then the legal procedures to make the determination, inform liable parties and to secure the remediation of

the site, including maintaining a statutory register of contaminated land will be undertaken in accordance with the legislation:

- a) significant harm is being caused;
- b) there is a significant possibility of significant harm being caused;
- c) pollution of controlled waters is being caused;
- d) pollution of controlled waters is likely to be caused;
- e) harm so far as attributable to radioactivity is being caused;
- f) there is a significant possibility of harm so far as attributable to radioactivity being caused;

9.23 Where MBC has been unable to identify appropriate persons at a site which has been determined as contaminated, it may declare the site an orphan site or an orphan linkage. At a site where it is considered that to require the appropriate persons to carry out any remedial action would cause hardship, then MBC may declare the site an orphan site or an orphan linkage site.

9.24 Once a site is declared an orphan or orphan linkage MBC is required to decide the most appropriate course of action for the site. MBC will be responsible for any remediation and associated costs. In this situation MBC may place a charge on the land to enable it to recoup the costs of carrying out its inspection, assessment and remediation. MBC will take all available measures to recover any costs it incurs as set out in DEFRA circular 01/2006.

9.25 The inspection or remediation of any potentially contaminated land should not result in harm to ecosystems and/or other nature conservation interests. Relevant parties such as English Heritage and/or Natural England shall be consulted with regards inspection or remediation proposals on or adjacent to land with such interests.

## **10.0 Arrangements for liaising with, and responding to, information from the owners or occupiers of land, and other interested parties.**

10.1 This section applies generally to both the collection of information from external bodies and the general public and the provision of information relating to land contamination issues.

10.2 Since the original strategy was adopted the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 have come into force. The principle behind the legislation that individuals have a "right to know" is acknowledged and was already recognised in the original strategy. The Council will ensure that it abides by the new legislative framework.

10.3 The authority can be both giver and receiver of information. In both cases where information is provided or requested the authority will

act in accordance with the Environmental Health enforcement protocol and service standards which set down what customers may expect from the service and how decisions on enforcement are reached.

- 10.4 In principle, the authority will share any relevant factual information on specific sites with any party having a legitimate interest in the land, subject to any legal duty imposed on it. Appendix B outlines particular situations in which communication should be made with relevant consultees.
- 10.5 Where information has been obtained under conditions of commercial confidentiality, the fact that information exists will be shared as above.
- 10.6 The authority may make reasonable charges for collating and copying such information, which will be reviewed from time to time.
- 10.7 Information may be supplied to the Authority by persons or organisations having an interest in a particular site, or by other persons volunteering information. However the information is provided, it will be considered on its merits. Statutory consultees will be advised of the outcome of any action taken as result of information received by them.
- 10.8 The provision of information on an anonymous or confidential basis will be discouraged. Where such information is supplied however and the provider does not wish to be identified, that wish will be respected unless there is an over-riding reason, such as an instruction of a court of law, to divulge that information.
- 10.9 The Authority receives requests for information, particularly relating to the purchase of land and dwellings. The Authority will provide whatever factual information it has in its possession, subject to 10.4 – 10.8 above, but will not provide interpretation of that data. The Authority cannot be responsible for the use of factual information it has provided to another party.

## **11.0 Management of Information**

- 11.1 The Assistant Director of Change and Environmental Services will be responsible for the safe keeping of information relating to the regime set up by the Environmental Protection Act 1990 Part IIA (LG to check with SG).
- 11.2 The Contaminated Land Working group will be the forum for raising awareness of those sections within the Authority having a legitimate interest in land.
- 11.3 A statutory register containing prescribed particulars relating to contaminated land, as detailed in paras. 78R, 78S and 78T of Part IIA of the Environmental Protection Act 1990 has been established and

will be available for inspection during office hours at the MBC Gateway, King Street, Maidstone, Kent, ME15 6JQ.

- 11.4 Contact information and literature relevant to this strategy and its implementation are contained in Appendices D and E respectively, and will be updated as and when necessary.

## **12.0 Review of information.**

- 12.1 Consideration of individual sites will not take place only once. As knowledge of the subject and potential health effects emerges it may be necessary to review decisions from time to time. It is anticipated that Stage I will involve an annual a rolling review programme, which may trigger a re-run of Stage II. of review.
- 12.2 As new information becomes available it may inform any stage of this process from Stage I through to Stage IV.
- 12.3 The public can contact the council and provide information on sites. This information will be incorporated into the database and may influence the progress of an individual site. Sites will be assessed as new information becomes available on a case by case basis.

## **13.0 Responding to Complaints**

- 13.1 Enquiries made about contaminated land will be dealt with expeditiously in accordance with the Council's published procedures for responding to requests for information and in accordance with Environmental Information regulations (2004).
- 13.2 Complaints made about the conduct of the authority, or of an officer, will be dealt with according to the Council's published criteria for responding to complaints.

## **14.0 Key Tasks and Timescales**

- 14.1 The next draft revised strategy will be considered by the Authority, and where appropriate will be put out to consultation by July 2015.
- 14.2 The need for Supplementary Planning Guidance and advice for developers will be considered and where necessary made available by July 2010.
- 14.3 Where necessary, the advice of external consultants may be sought on a case by case basis.
- 14.4 It is this Authorities intention to carry out the Stage I screening assessment by July 2010 with a view to run the CONCEPT model (BGS Prioritisation software).
- 14.5 The maintenance of relevant and updated GIS layers will be reviewed on an annual basis.

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- 14.6 The Head of Property and Procurement will be given information via the reformed working group to assist in the management of Council owned land which will meet no less than twice per year.
- 14.7 An annual report of progress will be prepared and published.
- 14.8 It is anticipated that all known sites will have been screened by July 2010 and all sites passed through stage II review at least once by 2011.

## **15.0 Bibliography and Additional Reading**

DEFRA Circular 01/2006 EPA 1990: Part IIA, Contaminated Land

DEFRA: safeguarding Our Soils, A Strategy for England, 2009

DEFRA Groundwaters and section 86 of the Water Act 2003 (CLAN/5/04), 2004

DoE Contaminated Land Research Report Nos 1-6. (1994-1995)

DoE Industry Profile. Gas works, coke works and other carbonisation plants (1995)

DoE Problems Arising from the Redevelopment of Gas Works and Similar Sites (2<sup>nd</sup> Ed.) (1987) Vols. 1 & 2

Environment Agency, An Ecological Risk Assessment Framework for Contamination in Soil, 2008.

Environmental Protection, England (2000 No.227) Contaminated Land (England) Regulations 2000

The Groundwater (England and Wales) Regulations 2009

Environmental Protection Act 1990, Part IIA (as inserted by s.57, Environment Act 1995)

Hooker P.J. *et al*, (2000) Some guidance on the use of digital environmental data. BGS Technical Report No. WE/99/14.

Maidstone Local Development framework – Annual Monitoring report 2007/2008: [http://digitalmaidstone.co.uk/pdf/090508\\_AMR%202007-2008%20with%20erratum.pdf](http://digitalmaidstone.co.uk/pdf/090508_AMR%202007-2008%20with%20erratum.pdf)

Maidstone Local Development framework – Annual Monitoring report 2008/2009.

Maidstone Borough Council Asset Management Plan 2008-2011: <http://www.digitalmaidstone.co.uk/pdf/Assetmanagementplan%2008-11%20rev12.pdf>

Martin, I. and Bardos, P. (1995) A review of full-scale treatment technologies for the remediation of contaminated soil. Report for the Royal Commission on Environmental Pollution. EPP Publication.

SEPA, Sniffer, Environment Agency and Environment and Heritage Service. Communicating understanding of Contaminated Land Risks. Sniffer Project No SR97(11)F

Water Act, 2003

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The Water Resources Act 1991 Regulations 2009 (Amendment)



## **Appendix A – Contaminated Land Working Group reformed November 2009**

<b>Name</b>	<b>Representing</b>
Elaine Bell	Legal Services
Steve Wilcock, Chair	Environmental Health
John Newington	Environmental Health
Rob Jarman	Development Control
David Tibbitt	Property & Procurement
Chris Finch	Property and Procurement
Brendon Neal	Spatial Planning
Deane Cunningham	Heritage Landscape and Design

The revision of the strategy carried out in 2010 was also undertaken by a cross-authority group.

## APPENDIX B

### Consultation Requirements in Particular Occurrences

The following table contains a summary of particular occurrences in which statutory consultees, and other interested parties, should be informed or consulted. Contact details are contained within the internal staff composite manual.

<b>Occurrence</b>	<b>Consultee</b>
Land/water contamination by hydrocarbons or organic solvents  Contamination of controlled waters	Mid Kent Water Southern Water Thames Water Environment Agency  Environment Agency
Intrusive investigation within a protected terrestrial ecological site.  As above that includes controlled waters.	Natural England  Environment Agency
<b>Rivers and ditches</b>  Spillage from tipping Discharge from vessels Chemical discharge Trade effluent Sewage pollution Animal carcasses Oil and petrol	Environment Agency Environment Agency Environment Agency Environment Agency Environment Agency DEFRA Petroleum Officer
Proposed remediation of contaminated land	SMR Officer, Kent County Council English Heritage  Archaeological Curator, Kent County Council  KCC GIS database of heritage designations list  Natural England

## **Appendix C - Contact information**

### **Maidstone Borough Council**

Sheila Davison  
Environmental Health Manager  
Maidstone Borough Council  
Maidstone House  
Kent ME15 6JQ  
Tel: 01622-602308  
Fax: 01622-602972  
Email: [sheiladavison@maidstone.gov.uk](mailto:sheiladavison@maidstone.gov.uk)

Steve Wilcock  
Pollution Team Leader  
Maidstone Borough Council  
Maidstone House  
Kent ME15 6JQ  
Tel: 01622-602184  
Fax: 01622-602972  
Email: [stevewilcock@maidstone.gov.uk](mailto:stevewilcock@maidstone.gov.uk)

John Newington  
Senior Pollution Officer  
Maidstone Borough Council  
Maidstone House,  
Kent  
Tel: 01622-602389  
Fax: 01622-602972  
Email: [johnnewington@maidstone.gov.uk](mailto:johnnewington@maidstone.gov.uk)

### **Environment Agency**

Groundwater & Contaminated Land team  
Environment Agency  
Orchard House  
Endeavour Park  
Addington, West Malling  
Kent ME19 5SH  
Tel: 08708 506506

### **Natural England**

Government team –Kent, Sussex and Surrey  
Coldharbour farm,  
Wye  
Ashford,  
Kent TN25 5DB  
Tel: 01233 811227

### **English Heritage**

South East Region  
Eastgate Court  
195-205 High Street  
Guildford

Surrey GU1 3EH  
Tel: 01483 252000

### **South East England Development Agency**

SEEDA Headquarters  
Cross Lanes  
Guildford  
Surrey GU1 1YA  
Tel: 01483 484200

### **Kent County Council**

Waste Management Department  
Block H, Forstal  
Beddow Way  
Aylesford  
ME20 7BT  
Tel: 01622 671411

### **Department of Environment, Food and Rural Affairs (DEFRA)**

Contaminated Land Branch  
DEFRA  
4/D11 Ashdown House  
123 Victoria Street  
London SW1E 6DE  
Tel: 020 7082 8568

### **Health and Safety Executive**

International House  
Dover Place  
Ashford  
Kent TN23 1HU  
Tel: 01233 653900

### **Food Standards Agency**

Food Standards Agency  
Contamination Division  
Aviation House  
125 Kingsway  
London WC2B 6NH  
Tel: 020 7276 8000

### **Adjoining Local Authorities**

#### **Tonbridge and Malling Borough Council**

Jane Heely  
Chief Environmental Health Officer  
Environmental Health and Housing Services  
Tonbridge and Malling Borough Council

Gibson Drive  
West Malling, Kent ME19 6LZ  
Tel: 01732 844522

### **Medway Council**

Lucy Kirk  
Environmental Protection Officer  
Civic Centre  
Strood  
Rochester, Kent ME2 4AU  
Tel: 01634 333059

### **Swale Borough Council**

David Ledger  
Environmental Services Manager  
Swale House  
East Street  
Sittingbourne, Kent ME10 3HT  
Tel: 01795 424341

### **Ashford Borough Council**

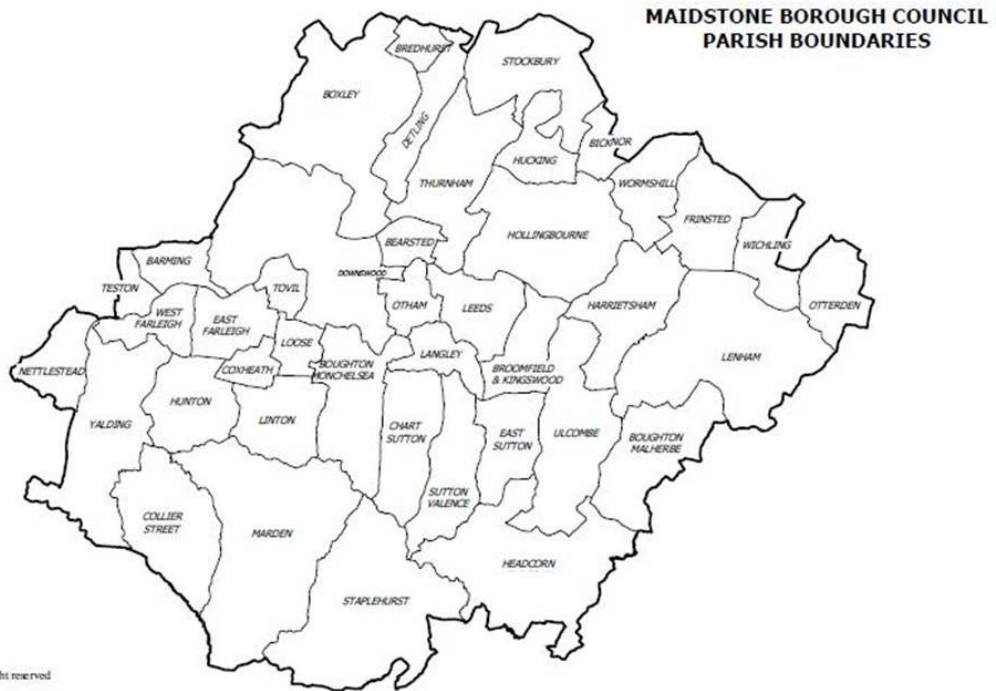
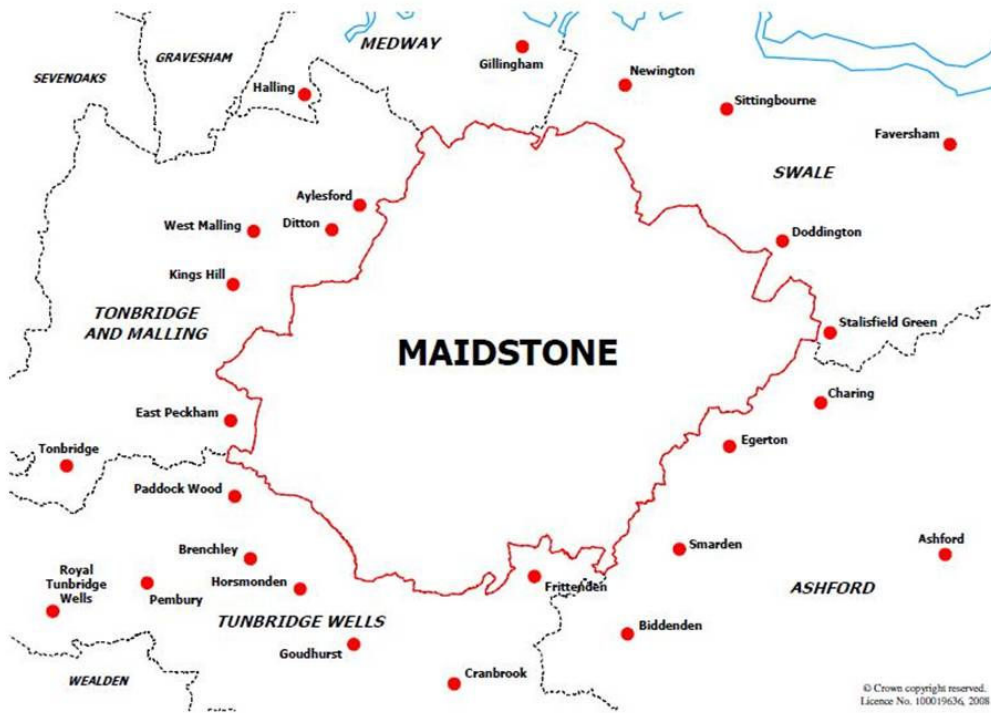
Richard Woodcock  
Health and Leisure Services Department  
Civic Centre  
Tannery Lane  
Ashford, Kent TN23 1PL  
Tel: 01233 637311

### **Tunbridge Wells Borough Council**

Duncan Haynes  
Environmental Health Manager  
Environmental Health and Housing  
Town Hall  
Royal Tunbridge Wells  
Kent TN1 1RS  
Tel: 01892 526121

## **APPENDIX D - Maps**

Map 1: Maidstone Borough, Parishes and Surrounding Areas



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Map 2: Maidstone Borough Wards, Towns and Villages

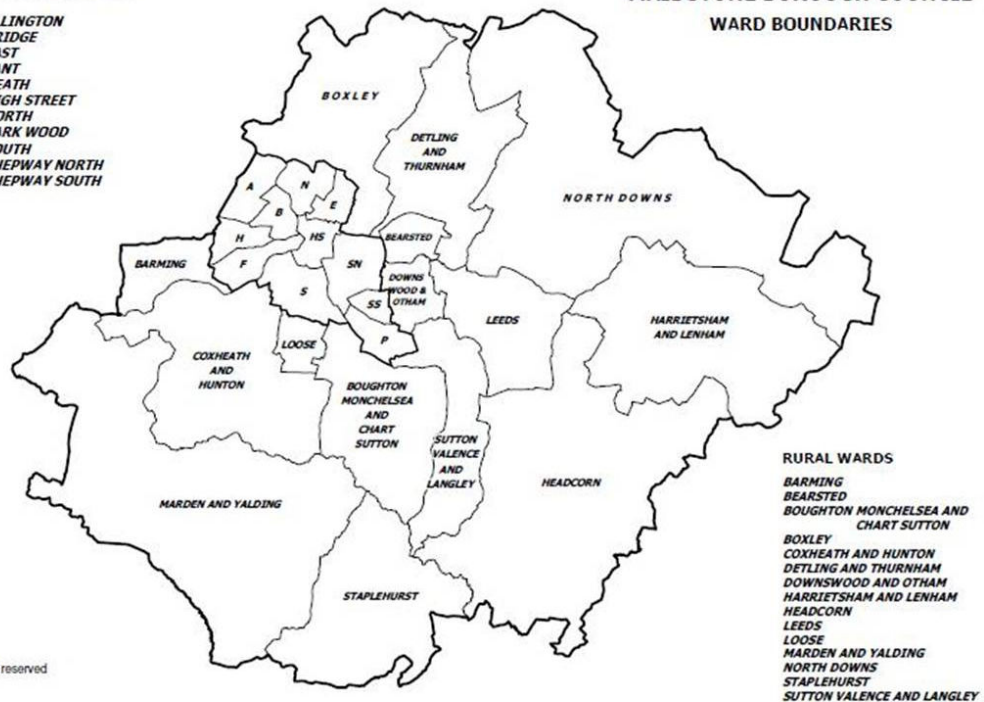


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KEY TO TOWN CENTRE WARDS

- A ALLINGTON
- B BRIDGE
- E EAST
- F FANT
- H HEATH
- HS HIGH STREET
- N NORTH
- P PARK WOOD
- S SOUTH
- SN SHEPWAY NORTH
- SS SHEPWAY SOUTH

MAIDSTONE BOROUGH COUNCIL  
WARD BOUNDARIES



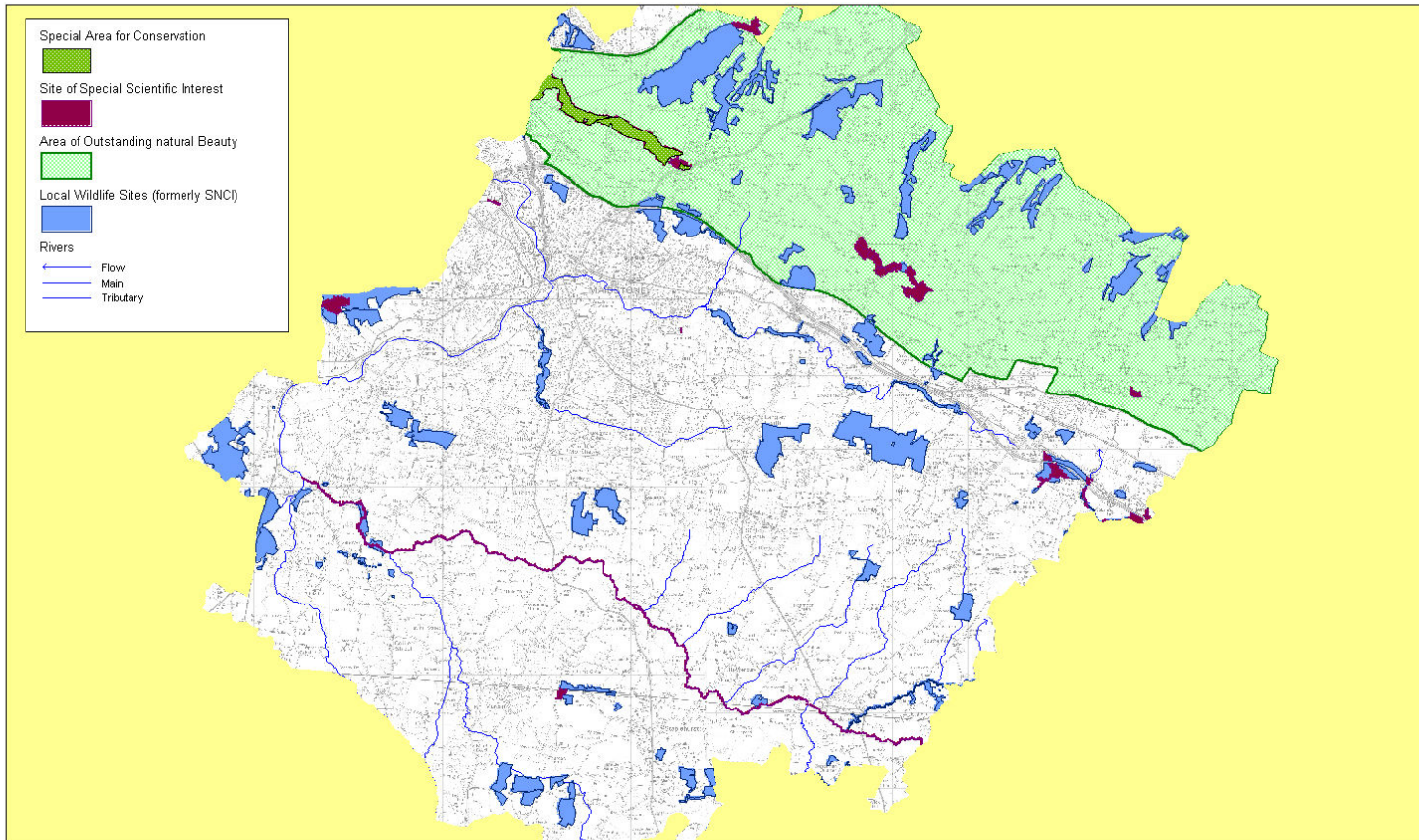
- RURAL WARDS
- BARMING
  - BEARSTED
  - BOUGHTON MONCHELSEA AND CHART SUTTON
  - BOXLEY
  - COXHEATH AND HUNTON
  - DETLING AND THURNHAM
  - DOWNSWOOD AND OTHAM
  - HARRIETSHAM AND LENHAM
  - HEADCORN
  - LEEDS
  - LOOSE
  - MARDEN AND YALDING
  - NORTH DOWNS
  - STAPLEHURST
  - SUTTON VALENTINE AND LANGLEY

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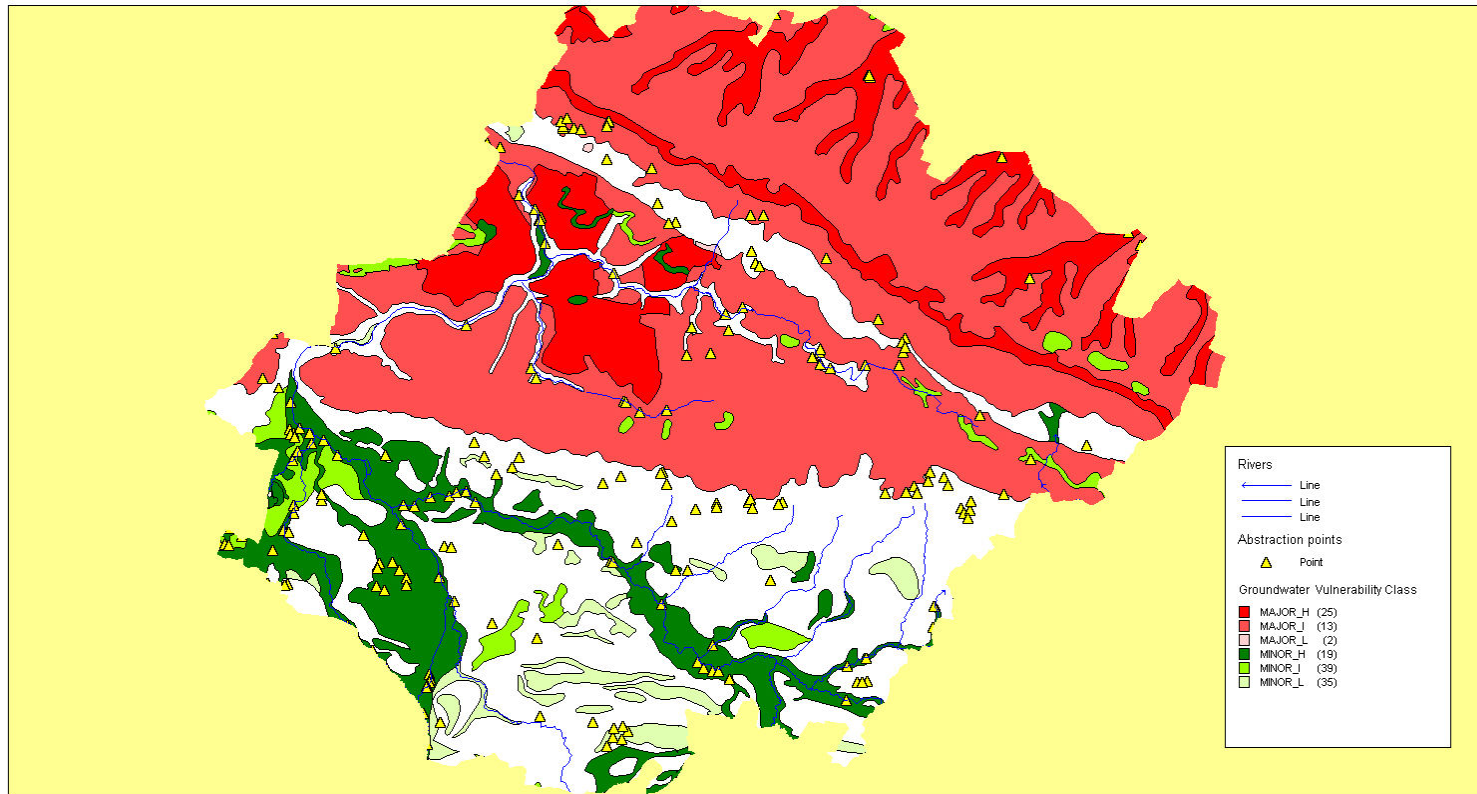
Map 3:

### Ecological Designations in the Borough of Maidstone



Map 4:

Groundwater Vulnerability & Abstractions in the Borough of Maidstone



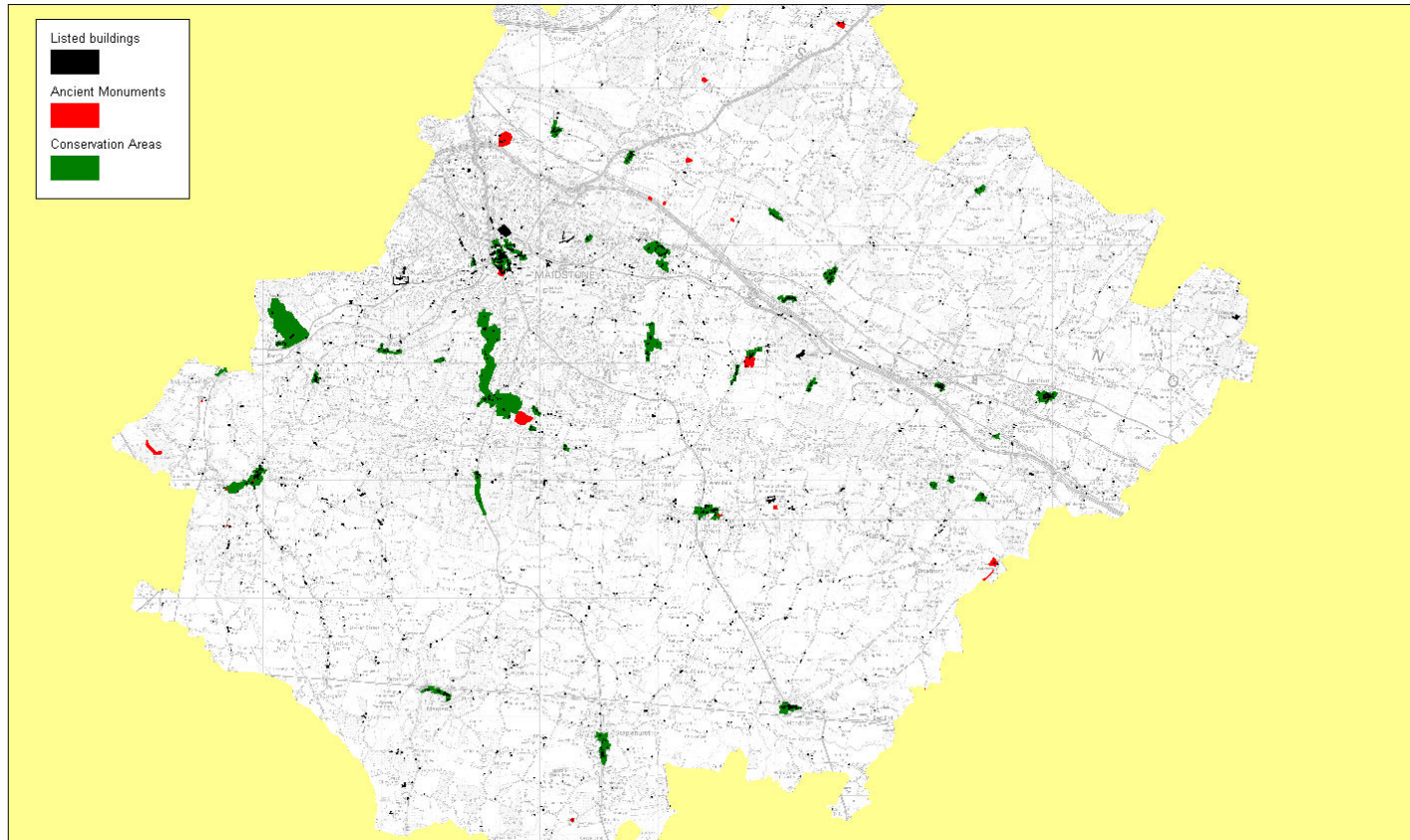
THE MAIDSTONE BOROUGH COUNCIL



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Map 5:

Built Environment Designations in the Borough of Maidstone



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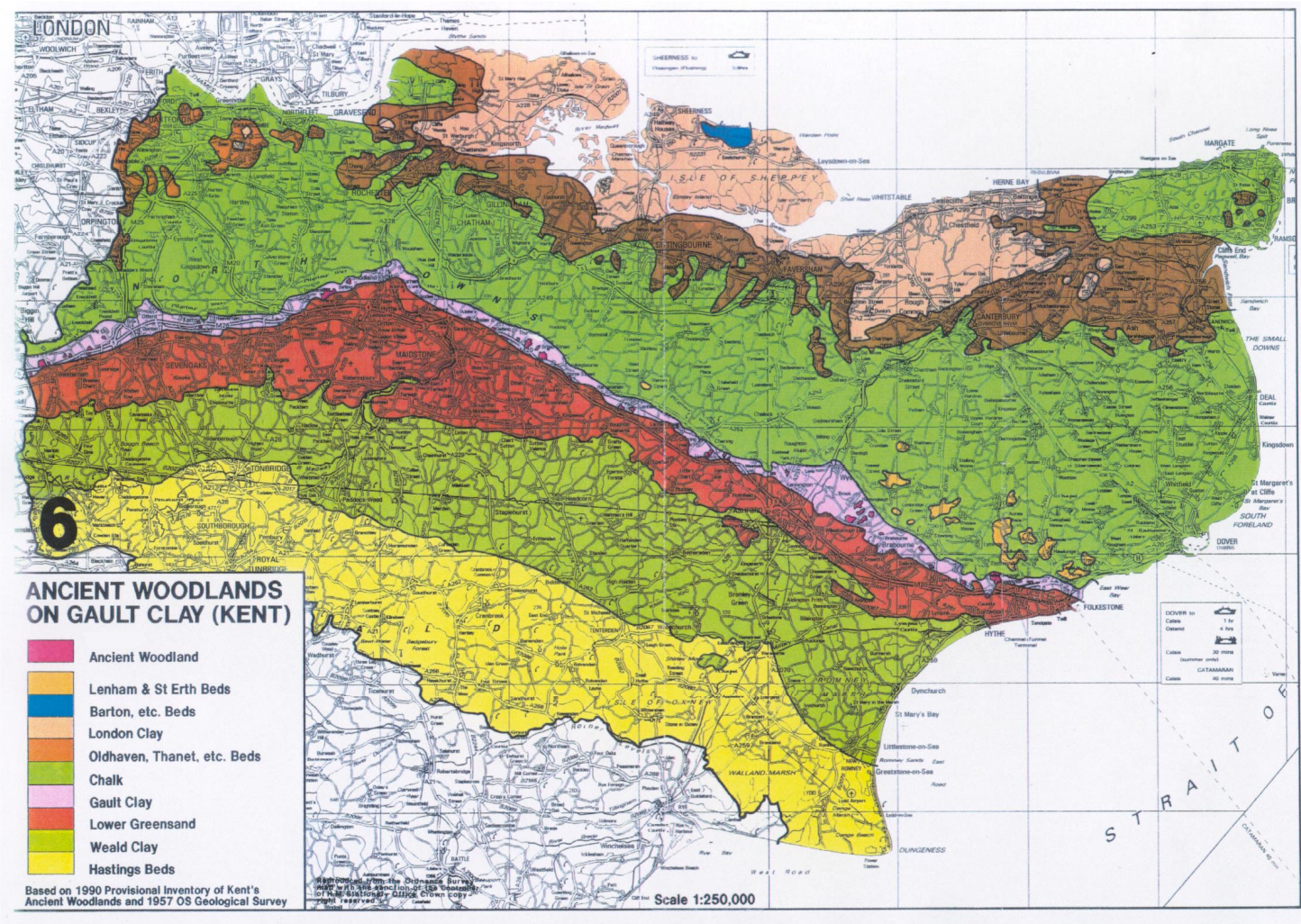


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Map 6: Geology of Kent



**End of Appendices**