

Part B: Legal Documents

- **Explanation of legal documents**
- **Notification in Respect of Contaminated Land**
- **Schedule to Notification**

Explanation of legal documents

This section of the information pack includes a legal notice and a schedule to the notice. The legal notice and schedule state that the Council has declared your garden as contaminated land. This is a result of soil samples taken from your garden and the risk assessment of the results.

This document aims to provide you with a clear explanation of what the legal documents say and what this means for you and your property.

1. 'Notification in respect of Identification of Contaminated Land'

This is a formal legal document that the Council is required to give to anyone who has an interest in the land. Copies have been sent to all owners, occupiers and other interested persons. This document tells you that your garden has been declared by the Council to be contaminated land. You will see from the document that you have been sent that you are identified as either an owner or an occupier of the property. We obtained this information by undertaking Land Registry Searches – this is where all land ownership information is recorded in the United Kingdom. The notification puts into place a 3-month consultation process on the appropriate clean up requirements.

2. 'Schedule to the Notification of Contaminated Land'

Section 1: *'Written Record of Determination'*

We are required by the Government to produce a Written Record of Determination. This report sets out the reasons why the Council has declared your garden as contaminated land. It is a detailed technical document that explains what substances were found in your garden and why this is a problem. We have provided information on the substances that have been found previously in the Health Information document for residents produced by Camden Primary Care Trust and also in the *What substances have been found* section in Part A of this information pack. The document sets out a brief history of the site and presents the findings of the Environmental study, it explains what pollutants have been found and how these might possibly affect the users of the land.

The final decision on what is to be done and who is to be pay for any works has not yet been decided. This will be made after the 3month consultation period. The Council will keep you updated and fully informed during this period. We welcome all comments you wish to make on this matter during this time.

If you have any specific queries any of the information in this section then please contact the Environmental Health Team on 020 7974 2638
Monday – Friday between 9.00am and 5.00pm.

Date: 17/03/05
Our Reference: E&CP/dxb/appointments
Your Reference:
Direct Phone Number: 020 7974 2638
Contact:



Environmental Health Team
London Borough of Camden
Town Hall
Argyle Street
London WC1H 8EQ

Tel: 020 7278 4444 (switchboard)
Fax: 020 7974 6955
DX: 2106 Euston

www.camden.gov.uk

E-mail: env.health@camden.gov.uk

Please quote our reference in any correspondence

Mr Olsfanger
35 Falkland road
Kentish Town
NW5

Dear Mr Olsfanger

**Contamination Investigation Update: Individual Householder Meetings
Part IIA Environmental Protection Act 1990**

Following my previous letter about arranging appointments to meet with residents individually, I can now tell you that we have booked the Kentish Town Library for two evening sessions and the Church Hall on Lady Margaret Road for an afternoon session. The details of the venues, session dates and times are:

| Date | Time | Location |
|----------------------------------|------------------|--|
| Monday 11 th April | 7.30pm to 10pm | Kentish Town Library Kentish Town Road |
| Tuesday 12 th April | 6.30pm to 9.30pm | Kentish Town Library Kentish Town Road |
| Wednesday April 13 th | 1pm to 6pm | Church of our Lady of Help of Christians 4 Lady Margaret Road |

We would like to keep each appointment to 30 minutes in the first instance. We will spend this time with you to go through your report and sample results from your garden. You can also use this time to ask any questions you want to raise with us.

If you would rather we come to your house at another time, we are happy to do this.

If you want to make an appointment to meet us at the Library, Church Hall or at your house, please send me an e-mail with your preferred appointment time, or telephone me to discuss setting up the appointment.

We look forward to hearing from you shortly. In the meantime, please continue to follow my previous advice. Do not eat any vegetables or fruit grown in your garden soil. Supervise your children when playing in the garden and wash your hands after any gardening activity.

Yours sincerely

Darren Beesley
Environmental Health Team

working with

Camden Primary Care Trust



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INVESTOR IN PEOPLE

Director: Peter Bishop

Date: 18/05/05
Our Reference: E&CP/dxb/may update
Your Reference:
Direct Phone Number: 020 7974 2638
Contact: D.Beasley
E-mail: env.health@camden.gov.uk

Please quote our reference in any correspondence

Mr Olsfanger
35 Falkland road
Kentish Town
NW5

Dear Mr Olsfanger

Part IIA Environmental Protection Act 1990
Garden Contamination Surrounding former Ascham Street Works

I am writing to update you on the next steps of our investigation. Firstly, I want to apologise for the delay in sending this letter. I have been unwell which has kept me out of the office for nearly a fortnight.

Our search for the polluters of the site has gone back to records dating from 1860. From this search we have identified companies that have operated on site and still exist. We have identified the company that carried out electro-plating of metals on the site from the 1950s until the late 1980s. This company is still in existence and we met with them recently to present the evidence of contamination and to advise them that we consider them to be responsible for the contamination. The company is yet to accept liability and has asked for further information from us. I will keep you informed as this situation develops.

Before we can mount a legal case against a polluter or obtain grants for remedial works, we need to formally 'Determine' each garden as contaminated land. We will be doing this in the next couple of weeks, when you will receive formal written notification from us. The notification letter will explain what the document is and what it means.

Since my last letter in April we have met with 18 affected households to discuss the soil sample results. We gave information relating to the legislation and procedures we have to follow to each household. These documents, as well as others, are available to view or download on the council web site at <http://www.camden.gov.uk/ccm/navigation/environment/pollution/contaminated-land/>

I will also be contacting those residents who raised more individual issues separately.

The people we met were generally happy with the approach we have taken so far and most were happy with the information we have provided so far. Many raised concerns about timescales of the project. Others had concerns that landowners would end up paying for work out of their own pockets.



Date: 23rd January 2006
Our Reference: E&CP/DXB/Ascham Jan update 06
Your Reference:
Direct Phone Number: 020 7974 2638
Contact: Darren Beesley
E-mail: env.health@camden.gov.uk



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London WC1H 8EQ

Tel: 020 7278 4444 (switchboard)
Fax: 020 7974 6955
DX: 2106 Euston

www.camden.gov.uk

Please quote our reference in any correspondence

Mr Norman Olsfanger
35 Falkland Road
London
NW5 2PU

Dear Mr Olsfanger

Part IIA Environmental Protection Act 1990
Former Ascham Street Works - Interested Persons Update – January 2005

This letter gives residents and other interested people an update on the current situation.

- Camden Council's investigations and enquiries continue. We are in the process of collecting data on companies that have operated from the works site and whether those companies are still in existence. We need to complete these enquiries to be certain that we have correctly identified all potential polluters before taking enforcement action.
- Camden Council received the Mayer Environmental Ltd report before Christmas. We have asked the Health Protection Agency and Camden Primary Care Trust (NHS) to comment on the report. The report is still in a draft format. I will let you know when we have a final version of the document and how you can view this. It is important for me to stress that the report's recommendations are **not** a final solution or a decision as to the action we will take, rather it is a hypothetical and viable method that **could** be used to clean up the gardens. I have given a brief summary of the report below
 - The report considered available options for cleaning up gardens, including methods that involve containment of contaminants on site (essentially installing a barrier and leaving contaminated soil in place), treatment of contaminants on site and excavation of contaminated soils with replacement with clean topsoil. The report also considers a 'do nothing' approach.
 - The report identifies excavation of garden soils to a depth of 40cm as the 'preferred' option. This method (whilst still presenting difficult and complex logistical problems) is suggested as the preferred approach, as it breaks pollutant linkages between contamination present in garden soils and people using the gardens.
 - The approach would attempt to leave existing good quality and impermeable patio and hard covered areas in place and protect mature trees (with excavation around base/roots using hand tools). The approach would involve the use of heavy machinery to excavate soils, and would require boundary walls between gardens to be removed. Gardens would be reinstated with clean topsoil and turf and boundary walls replaced with fences. Any damage made to patios or hand-standing areas would be 'made good' upon completion.
 - The approach is estimated to involve up to 3 months of disruption to residents, and would be likely to involve some road closures and closure of parking bays on a temporary basis.
 - We have a cost estimation for the works, including labour and machinery costs, reinstatement costs and cost of disposing contaminated soil at a licensed




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INVESTOR IN PEOPLE

Director: Peter Bishop

Date: 15/06/06
Our Reference: E&CP/Update June 2006
Your Reference:
Direct Phone Number: 020 7974 2638
Contact: Darren Beesley
E-mail: env.health@camden.gov.uk

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Please quote our reference in any correspondence

Mr Norman Olsfanger
35 Falkland Road
London
NW5 2PU

Dear Mr Norman Olsfanger

Part IIA Environmental Protection Act 1990
Former Ascham Street Works - Interested Persons Update – June 2006

This letter is an update on the contamination issue affecting properties surrounding the former plating works in Ascham Street. I am sorry that I have not sent an update letter to you sooner. I am able to update you on the following since my last letter at the end of January.

1. **Options Appraisal document.** At the time of the last letter this was a draft version. This document is now complete and available for inspection by appointment if requested. The preferred approach selected by the consultant remains excavation of contaminated soil to a minimum depth of 40cm and replacement with clean material, leaving durable/impermeable hard paving in place. The Primary Care Trust and Health Protection Agency have commented, suggesting that a minimum depth of excavation should be 50cm.
2. **Comments from residents.** I have received a number of comments and objections relating to the proposal to remove boundary walls and replace with fences (see previous update letter). This proposal is obviously not acceptable to residents and your comments have been noted and will be taken into account when a final way forward has been agreed. I have also received a number of useful and supportive e-mails and letters offering assistance in resolving the issue that I am grateful for.
3. **Government Guidance.** We are actively pressuring the Government for clearer guidance on the use of soil guideline values and determining unacceptable intakes – as any changes to central guidance might affect what we do in this case. We are providing the Soil Guideline Value Task Force set up by the Government with data from soils sampled in Camden to assist the task force to identify a pragmatic solution to land contamination in urban areas. In addition to providing data I am sitting as an advisory member on the task force.
4. **Legal enquiries.** Our enquiries continue and we have held a further meeting with legal Counsel, which was helpful. We have been directed to carry out more detailed enquiries to identify liability for the contamination. It is essential that we have completed all legal enquiries before taking any enforcement action against polluters. This is in the interests of all landowners - both private and Camden Council.



INVESTOR IN PEOPLE

Director: Peter Bishop

Nigel Zaoskoufis

From: Beesley, Darren [darren.beesley@camden.gov.uk]
Sent: 28 July 2006 12:13
To: normanolsfanger@aol.com
Subject: Information recorded on register and mobility of contaminants

Following our conversation I can advise the following;

Information recorded on the public register: As you know when a search is undertaken with the Council the fact that the property is currently recorded as contaminated land is flagged up. The public register is there to provide transparency in the condition of land and actions taken to make sites suitable for use. Should a private land owner of a determined property decide to undertake their own remedial works (and works are carried out to the satisfaction of the Council) then this would be recorded on the register - this is termed as voluntary action under the legislation. Subsequent enquiries relating to the property would advise people that the Council no longer considers the site to be contaminated land.

Contaminated land is land that is 'causing or has the potential to cause significant harm to a receptor'. In this case our risk assessment has resulted in the garden being determined due to elevated concentrations of heavy metals in the soil. The risk assessment considers that these concentrations pose a potential risk to young children (the receptor) eating the soil or eating vegetables grown in the soil. In the event that the soil is removed and replaced with clean or if the pathway between the soil and children playing in the soil is broken, then the land would no longer be recorded as contaminated land as there would no longer be potential for significant harm.

Mobility of contaminants: You asked whether there could be a situation in that one garden is remediated but the adjacent is not, and whether this could affect the remediated property. Our investigation has concluded that contaminants present within the gardens are not mobile and leaching of contamination from garden to another is therefore very unlikely.

I hope that this is helpful.

Yours sincerely

Darren Beesley
Environmental Health Team
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28/07/2006

Nigel Zaoskoufis

From: Beesley, Darren [darren.beesley@camden.gov.uk]
Sent: 28 July 2006 16:00
To: Nigel Zaoskoufis; Paul Robins
Subject: 35 Falkland Road - DETR Circular 02/2000 and required remediation
Importance: High

Dear Nigel and Paul,

I have been e-mailing and discussing similar issues with you both (and your clients).

To confirm it is my understanding that the entry on land charges is a permanent entry, however the entry is updated as circumstances on a site change - such as when remediation is undertaken. I have pasted a link below to the DETR Circular this is the basis of statutory guidance for local authorities on dealing with contaminated land.

<http://www.defra.gov.uk/environment/land/contaminated/circ2-2000/index.htm>

I have also been asked to provide information on what would be required to make the garden suitable for use. Any remediation would need be to break the pollutant linkage between contaminants in the soil and children using the garden. Our options appraisal study has identified excavation of soils to a depth of 50cm and replacement with clean, whilst leaving existing hard standing in place. Any remediation undertaken as well as breaking the pollutant linkage must be 'durable for the life time of the property'.

When soil has been excavated validation samples confirming contaminant concentrations at the base of excavations would be required, we would also require certification that contaminated soil has been disposed off appropriately and any new material/soil brought into the garden would also need to be certified as clean.

Requirements for remediation are also detailed in the guidance. I hope that this information is of use.

Regards

Darren Beesley
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28/07/2006