“Securing a Better environment for all the people of Birmingham”
Appendix 1

GUIDELINES FOR ASSESSING PLANNING APPLICATIONS FOR DEVELOPMENT ON OR NEAR TO LANDFILL SITES

1. Introduction

1.1. The City Council as Local Planning Authority is very conscious of the need to make full and effective use of urban land. In some circumstances this will involve the "re-cycling" of derelict land, possibly with the assistance of Derelict Land Grant etc. However, there are a number of sites throughout the City (now identified in the Register produced by the Director of Environmental Services) that have considerable development constraints due to problems of contamination and/or landfill gas.

1.2. Although landfill sites (ie former tips) are the main cause for concern, there are other sites which can also produce considerable quantities of gas. These include sewage treatment works, coal mines, river and canal dredging etc. It cannot therefore be assumed that because the site does not contain waste it is not generating methane or carbon dioxide.

1.3. These guidelines are intended to assist developers by setting out the City Council's views on the development potential of such sites and the issues that will need to be taken into account when considering planning applications. In assessing whether or not there is a risk due to gas or other contamination, account will be taken of the current state of technical knowledge and experience, and the advice and guidance issued by the Department of the Environment in particular in Circulars 21/87 and 17/89 and Waste Management Papers Numbers 26 and 27.

1.4. These guidelines form part of the Supplementary Planning Guidance to the Unitary Development Plan.

2. Procedures

2.1. Contamination, or the potential for it, and the possibility of migrating gas, are material planning considerations which need to be taken into account in the determination of planning applications. Consequently, when the City Council, as the local planning authority, has reason to suspect that a proposed development site - which may also include a redevelopment site - has been used for the deposit of refuse or waste or may have become contaminated as a result of previous uses, it will in the first instance be assumed that the land is contaminated or is generating methane gas unless information is available to the contrary.

2.2. The responsibility of providing this information including the carrying out of any surveys which may be necessary rests with the
developer. However, the City Council will assist as required. The Environmental Services Department will provide whatever relevant information is readily available and advice and guidance regarding the various matters that need to be investigated.

2.3. Developers are strongly advised to contact both the Department of Planning and Architecture and the Environmental Services Department at an early stage in order to obtain the necessary guidance and certainly before the submission of a formal application. Informal discussions at this stage will help identify the scale and extent of any ground condition problems and may enable a prospective developer to avoid unnecessary expenditure, for example in commissioning surveys that do not address the correct issues or even in the costs of an abortive planning application.

2.4. The survey information, including all findings and, where applicable, the proposed remedial measures, must be formally submitted to the City Council as part of the planning application. Where no, or insufficient, information is submitted, the City Council as local planning authority, can direct that it be provided in accordance with Article 4 of the Town and Country Planning (Applications) Regulations 1988. Failure to submit the necessary information within a reasonable period of time will lead to the automatic refusal of the planning application.

2.5. Any requirement to provide gas control systems or to incorporate suitable precautions in construction methods must be binding and must take full account of subsequent operation, maintenance and monitoring until such time as there is no longer any risk. Usually these measures will be required by the imposition of conditions attached to any planning consent granted. However, there may be some instances where the City Council would wish to secure their provision by means of a planning obligation under the provisions of Section 106 of the Town and Country Planning Act 1990.

3. Development of Restored Landfill Sites

3.1. The construction of any type of building on a known landfill site, other than those which are ancillary to the operation or maintenance of the site, will not normally be permitted until it has been shown that the production of landfill gas has fallen to below a level where it no longer constitutes a risk.

3.2. Where the waste has not biologically stabilised, certain types of "soft" uses may be possible, depending upon site conditions, provided that the natural regime of the site is maintained. Such uses may include sports pitches, public open space, horse grazing etc. Open storage or parking may also be possible, depending upon land use considerations. However, in all cases, precautions to avoid the build-up and/or migration of gas will be required.
4. Development of Land Within 250 metres of the Boundary of Existing and Restored Landfill Sites

4.1 The land could be used for "soft" uses in accordance with paragraph 3.2 above.

4.2 Under no circumstances will residential development be permitted within 50 metres of a landfill site until the levels of gas in the site no longer constitute a risk. Gardens of houses will not be permitted to extend within 10 metres of any landfill site where the levels of landfill gas still constitute a risk.

4.3 Residential development between 50 metres and 250 metres of a landfill site may be permitted subject to consideration being given to the levels of gas associated with the landfill site, the geological strata between the sites and possible gas migration pathways. Risk assessments will be required to demonstrate that gas migration will not constitute any problem.

4.4 Other types of development may be possible, subject to land use considerations, provided that effective measures are taken to manage migrating gas and minimise risks.

5. Building Regulations

5.1 Developers are reminded of the need to comply with the Building Regulations, 1991. In particular Schedule 1, Parts A to K and N, require reasonable standards of health and safety for persons in or about the building. Approved Document C and BRE "Construction of New Buildings on Gas Contaminated Land" gives more detailed guidance. However, developers are strongly advised to discuss their proposals with the relevant Building Control Officer of the City Council at an early stage.