

The redevelopment of contaminated land for housing use

Land which has been affected by contamination from old industrial activities is often regarded as an unusable eyesore, which blights urban areas. Research at Sheffield Hallam University has identified the constraints which apply to the redevelopment of this land for housing use and has examined how housing developments on former, contaminated, industrial sites are regarded by the development industry and potential occupiers.

f The general public regards contaminated land as being somewhere in the mid-range of everyday environmental hazards and would like to be informed about contamination issues on development sites.

f Private house-builders generally are reluctant to divulge information about projects on former contaminated sites - either for research purposes or to purchasers.

f Housing associations generally have been more willing to develop on contaminated land than private house-builders but, as a rule, even they do not make information available to their tenants.

f The approach adopted by planning authorities is extremely variable and confusion exists as to the relative responsibilities of the different departments within authorities, and the Environment Agency, tending to cause frustration amongst intending developers.

f There was a widespread belief amongst the general public, financial institutions, developers and estate agents that government should take the lead in securing the re-use of contaminated land.

f Of the funding institutions, traditional banks are more aware of the issues, and have appropriate mechanisms in place, than the building societies, or former societies which have converted to banks; none of the mechanisms discriminated against the redevelopment of contaminated land.

f Residential estate agents and the valuers of residential property have a poorly developed knowledge concerning contaminated land, even when they have been involved in its acquisition, disposal or redevelopment.

f The time taken by English Partnerships to process grant applications is a source of frustration for developers and many housing associations would also like to see the grant process streamlined between English Partnerships and the Housing Corporation.

Background

The government believes there could be up to 4.4 million more households in England between 1991 and 2016 and hopes that 60 per cent of new homes will be built on previously used, or 'brownfield', land.

A significant, but unknown, proportion of previously used land is affected by the presence of contamination from old industrial activities. In some cases, the concentration of contaminants may be so slight as to present little risk of harm but other sites may contain contaminants which, by their nature and degree of concentration, have the potential to cause 'significant harm' to human health and the wider environment.

There are no set standards or guidelines for clearing up contamination. The government expects the polluter to pay the cost of clearing up pollution; if the original polluter cannot be found, then responsibility falls to the present land owner.

General environmental hazards

A public attitudes survey showed that land contamination is perceived to be in the mid-range of environmental hazards so far as known risks are concerned. Drug abuse, smoking, asbestos in buildings, vehicle emissions and alcohol abuse were all thought to present a higher known risk than contaminated land. Considerably more concern is evident in respect of the unknown risks which may be associated with contaminated land. Of the possible harmful effects linked to contaminated land, contamination of drinking water and the risk of cancer were the hazards of greatest concern.

It was clear from the public attitudes survey that people want to know about the former uses of land on which new homes are built. Most people said they would want a report reassuring them that the site was as clean as a 'greenfield'. A warranty from the developer, accepting responsibility for any future remediation works necessary, was also considered desirable. There is a clear mismatch between the public's desire for information and housing developers' reluctance to provide it.

Information provided by housing developers

Provision of information to house purchasers on the former use of sites, contamination and its treatment varies between housing developers. Some provide no information. One developer, answering the question 'do you supply purchasers with information regarding previous contamination?', said:

"No we couldn't do that. I don't think it would make financial sense, commercial sense to do that. It's quite an emotive subject - contamination."

Most house-builders accepted that information should be available, but did not supply it unless directly asked. Commonly, no information was

provided in the sales particulars nor in the contract for sale documentation. Information would only be provided in response to solicitors' pre-contract enquiries. Other studies have shown that not all solicitors are diligent in making adequate enquiries about past uses.

It is possible that, even in the case of those developers who state that they provide information to house-buyers, for many people the first time they know about the past history of the site on which their house is built is after they have completed the purchase and moved in. Often people learn from locals who have lived in the neighbourhood for a long time.

Housing associations as developers

Housing associations are generally more prepared to acquire and develop old industrial sites than private house-builders. They are probably more accustomed to overcoming contamination problems and in many cases acquire sites from local authorities for nil or nominal consideration. The associations do not normally provide information on past site uses and treatment methods to their tenants. One development manager in a housing association said:

"If you've dealt with it, what's the point of telling them? It's like saying, 'Well, I used to have a broken leg.'"

Another said:

"If they ask, we'll tell them. As far as we're concerned the work we have undertaken negates it, why make them worry?"

The associations were more likely to provide limited information in the case of shared ownership and housing for sale schemes, usually in the form of a brief summary in the house manual.

The planning authority

Housing developers found that planning authorities differ greatly in their approach to contaminated land. For most private developers, the planning authority is regarded as a major hurdle to be overcome when seeking to redevelop contaminated land and several builders would reject development opportunities if planning problems were experienced during the pre-acquisition stage of the development.

The lack of a uniform approach by planning departments was thought to be a significant problem and the ability of local authorities to make well-informed decisions on contaminated land was questioned. One environmental consultant said:

"The planning process is pretty abysmal. Frankly, I don't think that local authorities are equipped to make judgements on contaminated land ... there are one or two exceptions where the building control officer or the environmental health officer concerned have the right background, training and skills."

The lack of clarity in the relationships between planners, environmental health officers and the Environment Agency was criticised. No one agency takes responsibility for certifying that sites have been treated and brought up to an acceptable standard.

The role of government

Eighty-six per cent of people interviewed were of the opinion that government should take the lead in the redevelopment process. A significant majority were also in favour of financial resources, in the form of grant aid for site investigations and remediation, being made available to achieve this objective. There was also support for tax or business rate relief being offered to the owners of contaminated land, to encourage them to clean up their sites.

Redevelopment of contaminated land

The pre-acquisition procedures adopted by private house-builders and housing associations vary enormously, with some undertaking detailed site investigations before entering into binding contracts for site purchase, whereas others tend to buy the site and then think about the problems later. In many cases, especially that of housing associations, detailed procedures have only come into use as the result of unwittingly having acquired a contaminated site and then having to cope with the problem of decontamination. Some organisations have a policy of developing problem sites, whilst others will not consider anything other than a greenfield.

The valuer's role

In most cases development appraisals or site valuations are prepared, either by in-house surveyors or independent valuers, which take account of the cost of treating contamination but rarely is any specific allowance made for the effect of stigma which may attach to the past history of the site. So far as the housing associations are concerned, this is probably understandable, given that they frequently acquire sites from local authorities at nominal figures, but for private house-builders there is a greater degree of risk, unless the stigma effect is contained within a very full remediation estimate or contingency.

Finance for redevelopment

The research found no evidence that banks or building societies discriminate against developments on sites affected by contamination. The fact that a site was affected by contamination would not rule it out from consideration for development finance by any of the financial institutions interviewed. Track record, competence and having a proper plan of action for remediation works were important factors. In some cases, the lending institutions increased the margin on the interest rate charged to cover additional risks, but by no means all banks and building societies took this approach. Funding

institutions rely on legislation and the advice of environmental consultants to determine the level of 'clean up' required. There is nothing to suggest that a standard of remediation above and beyond what may be needed to render a site 'suitable for use' is likely to be insisted on for funding purposes.

Banks and building societies do tend to take different approaches to the provision of development finance and the long-term funding of houses built on former contaminated sites. The major clearing banks have clearly defined environmental policy statements or environmental manuals in operation and are more likely to employ environmental consultants to advise on necessary clean-up measures. Most building societies do not have such well-developed systems for considering loans on contaminated sites, probably because banks have a long experience lending to a wide range of industrial businesses, involving contamination issues.

The estate agents' experience

Almost sixty per cent of the estate agents and valuers of residential property who participated in the study had first-hand experience in the development, acquisition or disposal of contaminated land. Most of the other estate agents or residential valuers lacked first-hand experience because they were worried about potential liabilities, lacked the necessary professional indemnity insurance cover, or had simply declined the opportunity to become involved with contaminated land.

When selling or valuing land which has previously been used for some industrial purpose almost all estate agents and residential valuers ask their clients for additional information in respect of the site. In contrast to the approach adopted when selling former industrial land, few agents request similar information when re-selling the houses which may have been constructed on that land.

There are exceptions, probably based on local knowledge, when agents would suggest to vendors that they obtain a report confirming that the land is 'clean', or a report from the local authority's environmental health department stating that remediation works have been undertaken to the authority's satisfaction.

In the majority of cases, however, it would seem that when houses are being sold through the re-sale market subjects such as previous site uses and possible contamination are only likely to arise when a sale is agreed and solicitors are instructed, if at all.

English Partnerships

The research found a widespread view, amongst the general public, financial institutions and the development industry, that the government must take the lead in dealing with contaminated land. English Partnerships, a government agency responsible for urban regeneration, came in for a lot of criticism, particularly from house-builders and housing

associations. The level of bureaucracy and the time taken to process grant applications for remediation of contaminated land were frustrating and made it difficult to dovetail grant applications with the development process. House-builders were also concerned about the differing approaches adopted by different regional offices in the organisation.

What the public wants

Decisions as to whether or not to acquire a home on brownfield developments are not price sensitive. Fewer than 12 per cent of people would be attracted by even a substantial reduction in the price of a house built on a brownfield site, when compared to one built on a greenfield site.

Communicating in the market place

Housing associations deal directly with the public, although some employ estate agents in respect of shared ownership and housing for sale schemes. Similarly, most major house-builders use direct marketing methods for selling their products. Therefore, most developers of new housing on brownfield sites are in a position to control the flow of information, without involving third parties.

In most cases, the second and subsequent lettings of tenanted property are also dealt with directly by landlords and again the provision of information can be controlled. For house-buyers, however, a similar situation does not exist and most will employ an estate agent to market the property.

Conclusion

The research suggests a number of important roles for the house-building trade associations and the professional bodies, representing valuers, surveyors, solicitors, town planners and other professions. These bodies can make a direct input into removing the fear which attaches to contaminated land by encouraging their members to recognise that it exists but can be successfully redeveloped if the appropriate procedures are followed and communication with other professionals and with the public improved.

About the study

The research included face-to-face interviews with around 70 people involved in the redevelopment of contaminated land - house-builders, housing association development managers, financiers, planning officers, environmental health officers and representatives of trade organisations. Also included were face-to-face interviews with 100 members of the general public and a postal survey of estate agents.

Further information

The full report, *The Redevelopment of Contaminated Land for Housing Use* by Paul Syms, is published by ISVA, 3 Cadogan Gate, London SW1X 0AS, Tel: 0171 235 2282, Fax: 0171 235 4390 (ISBN 0 902913 02 6, price £9.95 plus £2.50 p&p).

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