SUBR:IM

SUSTAINABLE URBAN BROWNFIELD REGENERATION: INTEGRATED MANAGEMENT

Regulating Contaminated Land: policy, sustainability and risk

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Forest Research
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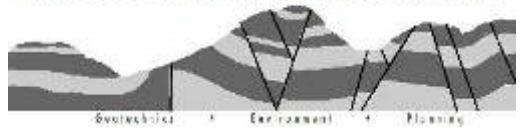

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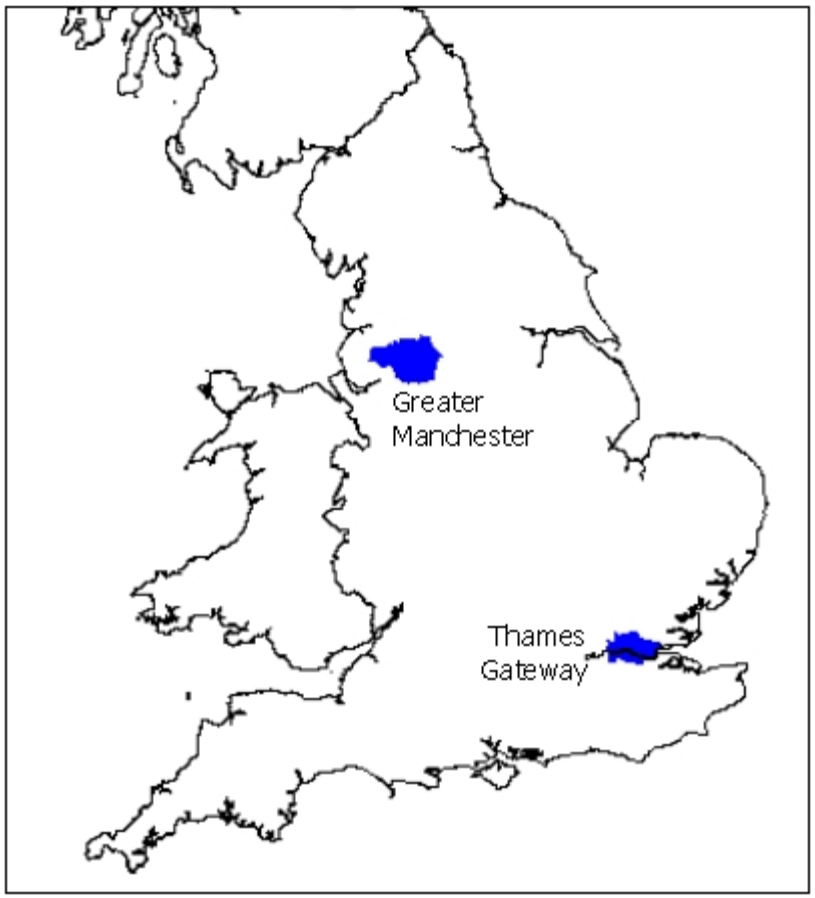
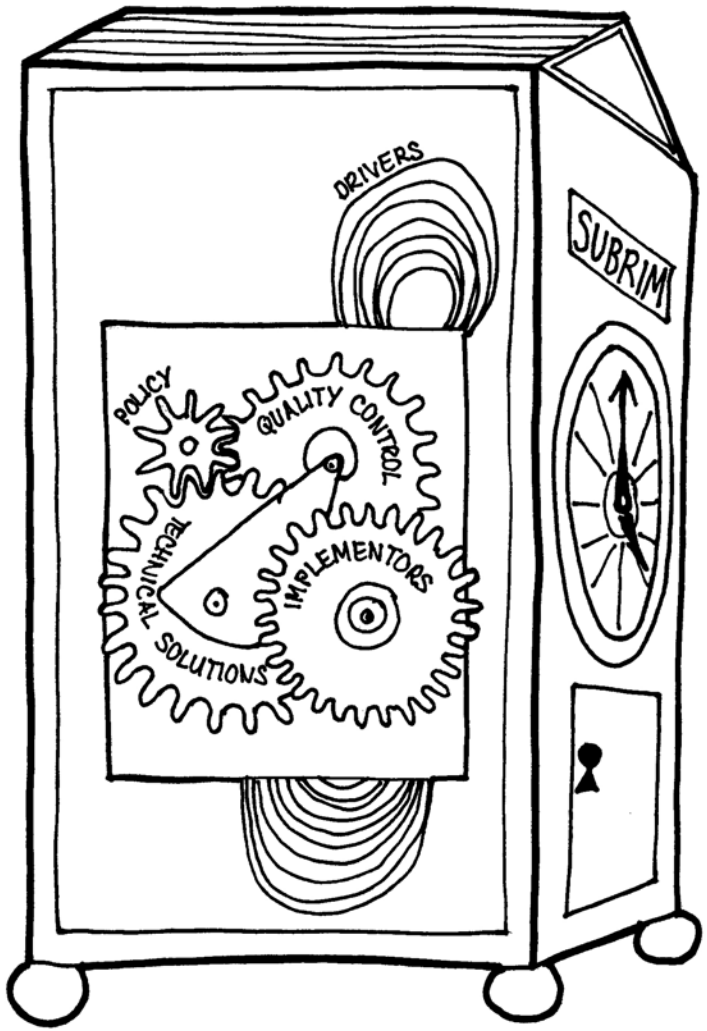


Projects within SUBR:IM

- Re-conceptualising brownfields
- Investors
- Development industry
- Governance
- Decision making
- Metrics
- Technical solutions
- Acid tar lagoons
- Risk reduction with charcoal
- Remediation and greening
- Novel composts
- Climate change
- Quality
- Design for deconstruction

Integrated Projects in Action!



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What is Contaminated Land?

Contaminated land is 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:

(a) Significant harm is being caused or is a significant possibility of such harm being caused;

(b) Pollution of controlled waters is being, or is likely to be, caused

(Source: Part IIa, sec. 78A(2))

An Acid Tar Lagoon

An Acid Tar Lagoon

A former landfill site

Why the focus on Contaminated land?

Four Factors:

- Deindustrialisation in 1980s
- More housing needed: 4.4 million houses needed between 1991-2016.
- Government target for brownfield regeneration: 67% target
- Exposure from environmental NGOs

Source: adapted from Walker 2002 (85-86)

Contaminated Land: Scale of the Problem

Britain:

- English Partnerships: 300,000 acres
- Cost: £20-40 billion (Watson 1993)

US:

600,000 contaminated sites

Cost: $400 billion - $1.7 trillion (Gray 2000)

Environmental Benefits

- Reduction of development pressures on greenfield sites
- Protection of public health and safety
- Protection and recycling of soil resources
- Protection of groundwaters

Source: Sousa (2001)

Social Benefits

- Renewal of urban areas
- Elimination of stigma attached to communities residing in affected areas
- Reduction of community fear (ill health, environmental damage and reduction in property values)
- Improved health & quality of life

Source: adapted from Sousa (2001)

Economic Benefits

- Attraction of domestic and foreign investment
- Development of remediation/ decontamination technologies
- Increasing land values in inner city areas
- More employment & tax revenues

Source: Sousa (2001)

Interlocking Processes

- Urban brownfield sites at nexus of many processes.
- Contamination and its treatment; physical redevelopment; property investment; governance, policy and regulation.
- Interactions and outcomes depend on characters of processes and contexts of relations.

The Development of the Policy Regime: Part 1

- 1977-8: Love Canal (US)
  - CERCLA passed 1980
  - Superfund created 1986
  - Clean up finished March 2004!
- 1978: Lekkerkerk (Netherlands)
- House of Lords Report 1981 andRoyal Commission on Environmental Pollution report 1985
- Loscoe 1986 (Derbyshire)

The Development of the Policy Regime: Part 2

- 1990 EPA (Section 143): Opposition from Property industry
- 1993: government abandons registers
- 1994: *Paying for Our Past* published
- 1995: 1995 Environment Act (Section 57)
- April 2000: government issues guidance to local authorities.

The contaminated land policy process

- The way that a problem is construed conditions the way that a (policy) solution is developed.
- ‘Development-managerialism’ underpins UK contaminated land policy.
- Two Policy Processes: Part IIa and Planning

Development-managerialism

- recognises that contamination poses health and environmental problems, but
- frames the issue primarily in economic terms, as an obstacle to economic progress and urban (re)development;
- emphasises minimisation of urban blight, protection of economic interests and use of market-led development processes to bring contaminated land back into productive use; and
- is pragmatic and cost effective.

Policy process: 1

Part IIA

- Local authority surveys of potentially contaminated sites
- Identify/register ‘contaminated land’ (significant harm/potential)
- Either: take action itself to break the source/pathway/receptor linkages; or
- propose the site for listing as an EA 'special site‘.

Policy process: 2

The planning system

- Remediation of all land that is not 'contaminated land'
- Framework established by Supplementary Planning Guidance
- Implemented through development control process
- Developer must ensure that the land is fit for the proposed use

Key features of UK policy

- the application of a specific definition of ‘contaminated land’
- the 'suitable for use’ doctrine
- risk assessment based decision making
- liability is the original polluter’s and/or the current owner’s
- decentralized, primarily locally implemented character
- most sites remediated as part of normal development process

Strengths of policy

- stronger national guidance and standards
- obligatory surveys by every local authority
- harnesses local knowledge and can be adapted to local circumstances
- allows (local) strategic priorities to be developed at two levels: register and special sites
- controls costs and needless 'over remediation'
- uses the development process continuously to monitor land and to mobilize resources for remediation

Weaknesses of policy

- ‘contaminated land' is defined in very narrow terms
- does not allow for change (physical contamination should be recorded even if a 'pathway' is not now operative)
- modelled risks may not correspond to 'real world’ risks
- liability regime – does the polluter actually pay?
- are responsible authorities adequately resourced?
- Relationship between ODPM and DEFRA
- Relationship between local authorities and Environment Agency
- Patchy implementation of regime across the country.
- Closed-off decision-making

Interaction of policy processes

Part IIA

- proactive
- (partly) publicly funded and operated
- focuses on dealing with ‘contaminated sites’ for which there is no immediate prospect of development

The planning system

- reactive (to development proposals)
- achieves privately funded treatment of contamination through public regulation
- deals with most contaminated land

Interaction of policy processes

Former toxic dump

- Capped and surrounded by 3m fence
- No pathway
- Not ‘contaminated land’
- Not dealt with by Part IIA

Proposed housing site

- Receptor and pathway would exist
- It is now – or would be – ‘contaminated land’
- Dealt with by the planning system

Is Contaminated Land Policy in the UK Sustainable?

- ‘it impedes social progress, depriving local people of a clean and healthy environment;
- it threatens wider damage to the environment and to wildlife;
- it inhibits the prudent use of land, in particular by obstructing the recycling of previously developed land and increasing development pressures on greenfield areas; and
- the cost of remediation represents a high burden on companies, home and land owners, and the economy as a whole.’ (Source DETR, 2000: para 6.)

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More information

Project website:

www.subrim.org.uk