Reusing Excavation Materials

Reusing Excavated Material (on-site and off-site) – England & Wales

Sites may have an opportunity to reuse excavated material, avoiding significant disposal costs. This includes but is not limited to:

- topsoil
- sub/soil (both clean & contaminated)
- made ground (both clean & contaminated)
- asphalt waste containing coal tar

Any site where excavated material has been re-used without the full implementation of either a suitable waste exemption or under the Definition of Waste Code of Practice, with suitable Materials Management Plan (declared to CL:AIRE), may be considered an **illegal waste site**. Such a site would to liable to prosecution from the Environment Agency (EA) / Natural Resources Wales (NRW) and HMRC – for avoidance of landfill tax.

Note: clean & naturally occurring material can be **reused on the site of origin** without any regulatory controls. Technical Departments should complete the Materials Planning Checklist as outlined below.

Technical Department

Technical teams must complete the Materials Planning Checklist when a site has been identified as having a need to reuse excavated material. The checklist must be filed as an Appendix in the Project Environmental Plan with relevant evidence.

Clean & naturally occurring material can be reused on the site of origin without the need for a Materials Management Plan. All other scenarios will require a Materials Management Plan (MMP).

Refer to EMS form 012 – Materials Planning Checklist

Getting it right – for sites requiring an MMP

Definition of Waste: Code of Practice (DoWCoP)

The DoWCoP is managed by CL:AIRE. When followed it allows materials to be de-classified as waste and reused on the site of origin, or other development sites. It is an independent, not-for-profit organization that acts for the development industry and regulators.

Contaminated **and** non-contaminated material may be used as a non-waste providing ALL the following criteria are met and documented in an approved Materials Management Plan (MMP) with Qualified Person sign-off.

- Use of the material will not increase the risk of harm to the environment or human health
- The material is suitable for use
- There is a certainty of use
- Materials should only be used in the quantity necessary for that use

Note: if the material is 'contaminated' a Remediation Strategy must be in place which demonstrates the material can be used without posing a risk to the environment and end-user – this will be agreed with the Local Planning Authority and form part of the planning requirements.

Where material is used under the DoWCoP it is NOT classed as a waste. As part of this process regulators are consulted; this includes the local planning authority and the Regulator (EA/NRW).

Demonstrating the four factors – material suitability

01 Protection of human health and protection of the environment

- Site Investigation (Phases I & II) – assesses human health & environmental risks in the context of the development e.g. commercial end use or residential.
- We must be mindful of the end use of receiver site.
- Contaminated material can be deemed suitable providing a Remediation Strategy is in place (and agreed / followed) e.g. clean capping layer.
- We cannot increase the risk to the environment or the end-user

02 Suitability for use, without further treatment

- The materials chemical and geotechnical properties have to be demonstrated to be suitable, and the relevant specification for its use must be met
- Chemical – refer to SI Phase II & Remediation Strategy if in place
- Geotechnical – refer to Earthworks Specification

- Development Design – review in the context of the materials for specific uses e.g. can use lower geotechnically suitable material in lower sensitivity areas (landscaped area, attenuation pond, car parking etc)

03 Certainty of use

- Demonstrate that the material will be used and not 'likely to be used'
- Material can be remediated / treated to ensure use – if not the material would be a waste
- Out of specification materials would be a waste
- Cut & Fill drawing – demonstrates shortfall or surplus of arising's

04 Quantity

- Materials should only be used in the quantities necessary for that use, and no more
- The use of an excessive amount of material will indicate that it is being disposed of and is waste.
- Earthworks Strategy & Cut & Fill models - review when necessary / as part of MMP process

Demonstrating the Four Factors

- The production of a Materials Management Plan (MMP) will help to ensure that the above matters are considered and a correct determination is made in relation to the nature of the materials.
- Qualified Person (QP) reviews and signs off the MMP

MMP – route to compliance

- Desk study
- Ground investigation
- Remediation strategy / Design Statement
- Regulator liaison
- Materials management plan
- Qualified person declaration
- Verification
- Regulator sign-off

In the first instance please contact your Group Health, Safety and Environment Advisor to discuss the regulatory requirements. By following this process, we will avoid any unwanted regulatory scrutiny from the EA / NRW, local authorities and HMRC.

Definitions & Acronyms

What	Who	Description	Time
CL:AIRE DoWCoP (Definition of Waste: Code of Practice)	N/A	**Contaminated Land: Applications in Real Environments** (CL:AIRE) Definition of Waste Code of Practice (DoWCoP) produced by industry, in agreement with the Environment Agency. The DoWCoP provides a clear, consistent and efficient process which enables the reuse of excavated materials on-site or their movement between sites. Use of the DoWCoP supports the sustainable and cost-effective development of land. It can provide an alternative to Environmental Permits or Waste Exemptions.	N/A
Site won	N/A	Site won material is that which arises from within the red-line boundary for the development (on planning application).	N/A
Clean & naturally occurring	N/A	This includes: • Soil, both top soil and sub-soil • Clays, silts, sands and gravels • Underlying geology • Reworked material consisting of the above materials only	N/A
Reuse on site of origin	N/A	This scenario applies when excavated material is to be used on the site from which it has been excavated, either without treatment or after on-site treatment. Only site won material (from within red-line planning boundary) can be reused in this scenario.	N/A
Direct Transfer of clean naturally occurring soil / mineral materials	N/A	This scenario applies when development sites have a requirement to import soils from other development sites. This scenario covers both clean naturally occurring material and contaminated material.	N/A
Remediation Method Statement (RMS) ***aka*** Remediation Strategy	External employed by PH	Required where contamination **is** present or suspected. The site investigation report will include recommendations for remedial actions. These recommendations will be reviewed by the regulators, which will typically include the Environment Agency / NRW and the local planning authority. When the requirements for remedial works have been agreed, it is routine to formalise the process in a remediation method statement (RMS). This document details the measures required to make the site suitable for its proposed end use, including any monitoring and validation works.	4-6 weeks
Design Statement	External employed by PH	Required where reusing SITE WON or IMPORTED made ground/soils & contamination is **not** suspected. Will include an appropriate assessment to verify that made ground/soils are suitable. Detail required in this document is likely to be significantly less than an RMS. Produced by an external consultant.	2-4 weeks
Materials Management Plan (MMP)	External employed by PH	Produced by an external consultant to allow for soils/made ground to be re-used, either on-site or off-site. Must then be forwarded onto an externally appointed QP (see below). **Note** – there is a **30 day** consultation period with Regulators on MMPs.	2-4 weeks + 30 days
Qualified Person (QP)	External employed by PH	<u>Prior to works:</u> A Qualified Person must review the evidence relating to the proposed use of materials on a specific site and if satisfied, will sign a Declaration and submit it to the EA/NRW. A copy must be immediately supplied to the person commissioning the excavation. <u>Upon completion of works:</u> In order to prove that materials have been treated and used in an acceptable manner, a Verification Report must be prepared at the conclusion of works and forwarded onto CL:AIRE (and EA if requested).	2-4 weeks **+** 2-4 weeks

		Note – a QP must be recorded as a Qualified Person with CL:AIRE. They must also be appointed **independently** by PH (i.e. cannot be appointed by the consultant responsible for compiling the MMP).	
Verification / Validation Report	External employed by PH	A report containing evidence to demonstrate that remediation objectives have been achieved. Required when operating under an RMS or Design Statement. Undertaken by a consultant; but typically, requires input from PH and supply chain partners whom completed works on site. Consultant will compile evidence and produce report for submission to the Qualified Person. They will review evidence and forward onto CL:AIRE (and Regulators where necessary, e.g. to Local Authority to discharge planning conditions).	4-6 weeks
Waste Classification	External employed by PH	Wastes must be sampled and analysed to identify if they are hazardous or not. This includes soils, asphalt suspected of containing coal tar, materials containing asbestos etc. Chemical testing is conducted to determine a waste code, this must be done before any waste soils are removed. **Note** – lead time can be 2-4 weeks.	1-2 weeks
Waste Acceptance Criteria (WAC) test	External employed by PH	Required for wastes intended for disposal at landfill sites. Criteria are in place for inert waste landfill and hazardous waste landfills. A WAC test must **not** be used to classify waste. **Note** – lead time can be 2-4 weeks.	1-2 weeks
Persistent Organic Pollutants (POPS)	External employed by PH	Persistent organic pollutants (POPs) are organic substances that persist in the environment, accumulate in living organisms and pose a risk to our health and the environment. POPS can include: pesticides; industrial chemicals; or unintentional by-products formed during industrial processes. The site investigation desk study should identify if testing for POPS is recommended. **Note** – lead time can be 2-4 weeks.	1-2 weeks