

# Uncovered

Edition 5



## Case Study this edition:

**Legal row over toxic clean-up** as cancer-causing chemicals discovered in gardens of forty-eight Doncaster properties.

## Latest Landmark news:

Demand for environmental reports on the increase as we celebrate the sale of our one millionth report.

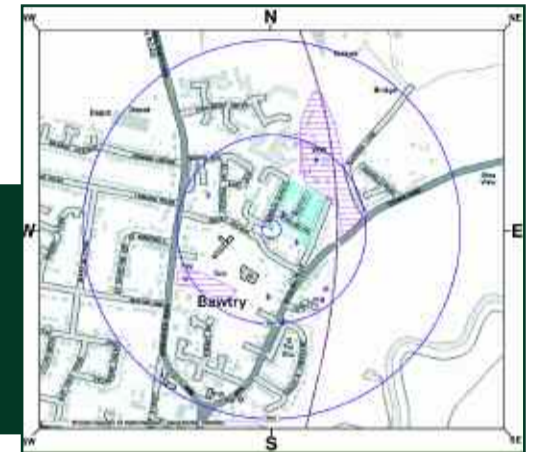
## Environment news:

**Subsidence in Suburbia**  
Twenty homes evacuated in Bromley after house collapses.

## Case study: Bawtry, Doncaster

### Legal row over toxic clean-up

**Summary:** A Doncaster housing estate built on a former gas works is at the centre of a High Court test case over who pays the bills for cleaning up land contaminated by the industry.



Five oil tanks from Landmark's unique historical land use data set revealed threat from potential contamination.

#### Background

**Anxious homeowners in a Doncaster suburb are waiting to hear whether they will be expected to foot a £700,000 bill for clearing contaminated soil from their gardens following commencement of a landmark High Court case.**

Cancer-causing chemicals were discovered in the gardens of 48 properties in Ivatt Close, Stirling Avenue and Gresley Avenue, Bawtry, which were all built on the site of an old gas works in 1966. The works, which produced gas from coal, and operated during the first half of the 20th century, was run by old city gas companies that were wound up when the industry was nationalised.

Coal tar, usually disposed of underground within brick-walled tanks, was first discovered by Steve Curtis

when he was levelling the garden of his home in Ivatt Close in October 2001. He and his wife, Lisa have two boys who have never known what it is to have a garden to play in.

During the opening of the case in April 2006, the court heard that residents were at risk of "significant harm" from contact with the soil or from growing vegetables.

#### Beloved gardens destroyed

Doncaster Council instructed the Environment Agency to investigate, revealing the extent of contamination which included the heavy metal nickel and said that there was no alternative to digging up the gardens as there was a possibility that groundwater might have been contaminated.

A couple in Gresley Avenue spoke of their distress at the destruction of the garden they had worked for years to create. They claim that the Agency has not kept its promise to restore the garden to its original condition. The soil delivered was full of clay, the garden consequently flooded, requiring the couple, both in their 60's, to dig channels to drain it away.

A spokesman from the Environment Agency said that they were aware of the situation and would monitor the gardens over the next 12 months.

The clean up operation was initially funded by the EA, but aimed to recover "a reasonable proportion" of the costs. Phase 2 will be the responsibility of Doncaster Council.

#### Who pays?

The EA declared that it would not be appropriate to recover the costs from the current homeowners and the housing developers who had built on the site, and would have been responsible for some of the bill, had been dissolved.

The agency has now taken National Grid

Gas (NGG) to the High Court in a bid to make them pay. NGG – formerly British Gas and Transco, which is responsible for distribution of gas across the country – allegedly "inherited" liability for the £700,000 clean up operation. The EA declared them the "appropriate person" under the Environmental Protection Act 1990 and should be liable for paying for the clean-up on the grounds that the contamination was caused by one or more of its statutory predecessors.

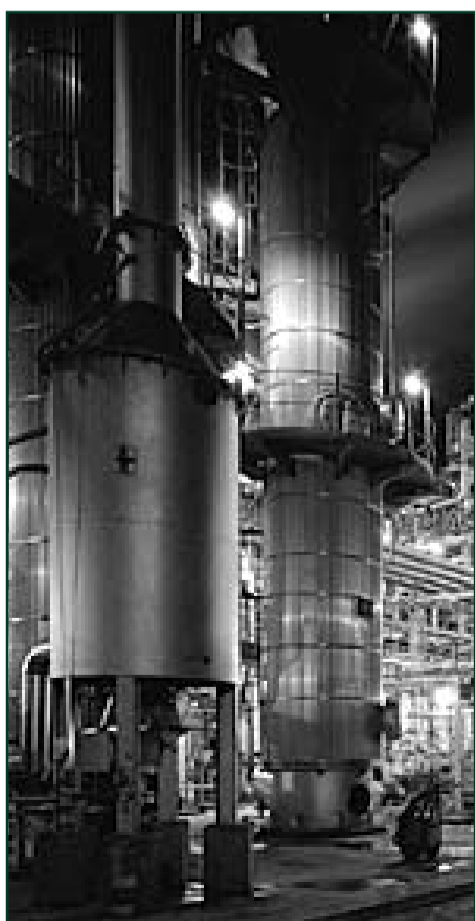
NGG has argued that it did not cause or knowingly permit the contamination and that liabilities from its predecessors have not been transferred to the group. If they win the case, the taxpayer or affected residents may have to pay up instead.

The outcome could affect 2000 similar sites around the country where the ground was contaminated by old utility companies which have now ceased to

exist. The case continues at the time of going to press and Uncovered will report on the verdict in the next edition.

Using unique historical land use data, Landmark reports highlight potential contamination from industrial use, information which is vital to ensure homeowners have all the facts.

**Environmental and planning reports are available from a nationwide network of resellers or direct from [www.landmark.co.uk](http://www.landmark.co.uk). For more information about the range of environmental and planning data reports from Landmark Information Group, email [info@landmarkinfo.co.uk](mailto:info@landmarkinfo.co.uk) or call 0870 606 1700 today.**



^An example of a typical gas works.

## HIPs, Planning and the Environment.

**A Landmark Seminar offering up to 6 hours CPD.**

Environmental risk is something that cannot be overlooked in property transactions - particularly since the impact of Part IIA of the Environmental Protection Act and the Law Society Warning Card on contamination. Increasingly, issues surrounding planning are also of concern to conveyancers. These seminars gives you the opportunity to be briefed by leading industry experts and get fully up to speed on the latest developments - in just one day.

#### Half Day (3 hours CPD) - Environmental, HIPs and Planning

23rd May	Swansea
20th June	Middlesbrough
11th October	Preston
15th November	Brighton
12th December	Nottingham

#### Full Day (Up to 6 hours CDP) - Environmental and HIPs overview

12th July	London - <b>Fully Booked</b>
14th September	Birmingham - <b>Places Limited</b>

For more information or to book a place at any of the seminars, please contact Gary Bullett on 020 8315 4525 or email [gary.bullett@landmarkinfo.co.uk](mailto:gary.bullett@landmarkinfo.co.uk)

# Landmark News

## Environmental reports on the increase as Landmark celebrates one million milestone

Landmark Information Group has sold over one million residential Envirosearch reports since it launched the service to lawyers, conveyancers and property professionals in 2000. The figure reflects a rapid growth in demand for environmental reports to the extent that Landmark now sells a report to the legal profession every minute – nearly 2,000 a day.

But according to James Sherwood-Rogers, Managing Director of Landmark's Legal and Financial Group Company, almost half a million of this year's estimated 1.4 million housing transactions will be left in the dark when it comes to environmental risk, as 35% of legal professionals still fail to order environmental reports on behalf of their clients.

James Sherwood-Rogers commented:

"Despite the Law Society's Contaminated Land Warning Card, which warns of potential negligence claims if environmental issues are not addressed, a significant number of legal professionals bury their head in the sand



when it comes to managing and assessing environmental risk, believing that it bears little impact or importance on them and their business. We therefore still have a great deal of work to do in educating the market of the importance of not being complacent. An environmental report should be ordered in every transaction, which is something that many of the UK's leading law firms have already instigated as 'best practice'."

Providing the best possible service for their clients and adopting a 'lead by example' approach is something that Dickinson Dees has always been proud of according to Nigel Emmerson, Partner in charge of Conveyancing:

"We firmly believe that this is the best solution to protect both ourselves and clients from potential environmental liabilities, whilst ensuring that we provide clients with all the necessary information needed to make better informed decisions, which ultimately, reduces the risks for all involved in the buying and selling of a property. We have used Landmark Information Group's comprehensive range of reports for a number of years which provide certified protection against liability under Part IIA of the Environmental Protection Act 1990."

## Commercial reports with an opinion – everyone's doing them!

Since launching the Sitecheck commercial report range in July 2005, we are delighted to report a major shift in favour of commercial reports with risk assessment and reports carrying a professional opinion.



## For further information contact:

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Sitecheck data is offered as a report for interpretation by in-house experts and should only really be used accordingly. Many commercial conveyancers clearly appreciate the need to provide clients with as much clarity and assurance while removing the burden of interpretation on themselves.

For more information on the Sitecheck range please contact our account executives on 0870 754 4411.

## Historical Land Use Data - capture complete

Landmark have now completed a groundbreaking project that will greatly improve the analysis of historical land use for environmental assessment. A team of over 170 operators have painstakingly analysed 211,583 maps at 1:2500 and 1:1250 scales to capture over 1.7 million features that will give Landmark the most detailed picture ever provided of historical land uses in the UK.

The project covers the whole of the mainland of the UK and has unearthed previously unknown features that will locate possible contaminants much more accurately than with 1:10,000 data resulting in greater certainty for you and your clients.



# Environment News

## Buncefield study proceeds cautiously

The joint Environment Agency / Health & Safety Executive team investigating the Buncefield oil depot fire is continuing to investigate the pollution it caused, but is not drawing conclusions as yet.

A progress report draws some tentative conclusions showing major release of a cloud of inflammable gasses in the minutes before the explosion on 11 December 2005 near Hemel Hempstead, Hertfordshire but contains little new on the environmental front.

It has focused on containment of products and fire fighting materials and is identifying pollutant pathways and the scale of land and water contamination.

The site stands on a low permeability layer of clay with flints 2-10m thick overlying a major aquifer in the Upper Chalk. Groundwater is typically 45m below the surface and the flow is south-eastwards.

Samples have been taken from lagoons, boreholes and water courses and the Agency is investigating the site containment and the root causes of any containment failures.



## Olympic infrastructure costs will be more than £1bn

The £1bn estimated infrastructure spend to deliver the 2012 Olympic Games is likely to have to rise significantly if a proper groundwork job is to be done, Olympic Delivery Authority Chief Executive David Higgins has warned.

He told The Observer that although infrastructure is budgeted to take £1bn of the £3.4bn earmarked for the Games, the challenges of providing infrastructure on brownfield sites not just for the Games but for the 35,000 homes and other development set to succeed them mean a significant rise. He cited his experience as Chief Executive at English Partnerships where providing 15,000 homes over 16 years took £1.5bn of infrastructure spend.

"Now this valley is talking about 35,000 homes and what's more it's not in a green field," he said. "You're putting it into an environment and community that physically is very complicated because it's got contaminated land, it's got power lines and a river system and socially it's difficult because you're putting it into a community where education levels, health levels and job participation levels are all lower than the national average. This is not a case of plonking a whole new city in a greenfield block of land.

## Subsidence in Suburbia

Twenty homes have been evacuated and three homes are to be demolished on a street in South-East London where a house collapsed without warning.

The Shepherd Family of Ridley Road, Bromley managed a lucky escape in the middle of the night, after being trapped inside as cracks started appearing around them. The semi-detached house was near a main line rail track and a 40-metre exclusion zone was set up shortly after the collapse, with Eurostar and domestic rail services initially disrupted.

The owners of three neighbouring properties have been told they will have to be demolished, but there are concerns that



more will have to be flattened, as houses across the street have started to crack up as well. At the time of going to press, cracks are still appearing in the road.

There are likely to be considerable delays while Bromley Council seek a court order to navigate their way through what they describe as a "series of complex ownership issues". The houses are mostly privately-owned and have been there since the 1970s.

Residents spent Easter 2006 with family members or in a nearby hotel and believe that they will be staying in temporary accommodation for up to nine months.

Bromley Council said that they were doing everything they could for the residents. A team of structural engineers have been deployed to see whether subsidence, or something else is to blame and more will be known after deep excavations has been carried out.

There has been some speculation that a mine shaft, a well or the high-speed Eurostar track, onto which the houses back, might be to blame.

This is another of an increasing number of collapses in suburban areas, particularly in the South East of England, previously unaffected by subsidence. In some cases this has been due to previously undiscovered mine workings, but a major factor could be continued dry summers and winters as soil conditions deteriorate.