

MANAGEMENT OF EXCAVATED MATERIALS (CL:AIRE Definition of Waste CoP V2)

ELQF

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OUTLINE OF PRESENTATION

- ➔ Background– UK approach
- ➔ Role of Waste Framework Directive
- ➔ Making decisions about waste status
- ➔ Overview of CoP version 2
- ➔ EA Roles
- ➔ References

Relevant UK Position

➔ Aim: Sustainable development

➔ Principles:

- ➔ Prevent New Contamination
- ➔ Deal with existing Contamination

➔ Approach: “Suitability for Use”

- ➔ Ensuring land is suitable for its current use
- ➔ Ensuring land is made suitable for any new use, as planning permission is given
- ➔ Limiting the requirements for remediation to that required to control unacceptable risks*

Control of Excavated Materials

- ➔ Detrimental impacts of excavation and reuse controlled via:
 - ➔ Town and Country Planning Regime
 - ➔ Planning Regulations
 - ➔ Environmental Impact Regulations
 - ➔ Pollution Control Regime
 - ➔ Environmental Permitting Regulations**
 - ➔ Site Waste Management Plans
- ➔ **Whether or not the Environmental Permitting Regulations apply depends upon whether the excavated materials are “waste”.

Waste Framework Directive

➔ A common definition of waste

➔ “waste shall mean any substance or object in the categories set out in Annex I which the holder discards or intends or is required to discard.”

Three key questions

- ➔ When does material become a waste?
- ➔ Once something has “become” waste, when does it cease to be waste?
- ➔ Why does the EA care? – Because if its waste then keeping, treating or disposing requires an environmental permit.

Whose Decision?

- ➔ Responsibility of person in possession of substance or object to determine if waste
- ➔ It is not the Agency that “makes” something waste or not waste
- ➔ It is a matter of law and ultimately for the courts to decide.....

From Case Law:

➔ Ultimate Test = Discard

Indicators:

➔ Suitability of Use

➔ Chemical/Geotechnical/Others

➔ Does not cause pollution, harm, detriment etc.

➔ Quantity of use

➔ Certainty of use

Guidance for decision making..

IS IT WASTE ?

Case by Case

**Quality
Protocols**

**CL:AIRE
Code of
Practice**

Why isn't there a Quality Protocol?

 Material change for a better environment


 Environment Agency


Waste Protocols Project

Contaminated soils

A technical report for producing and using engineering materials derived from the treatment of land affected by contamination

The Waste Protocols Project has supported work that the Environment Agency is carrying out with CL:AIRE to develop a Code of Practice that sets out the type of evidence that developers need to gather to demonstrate that material has not been discarded or has ceased to be waste following treatment.

 Material change for a better environment

 Environment Agency

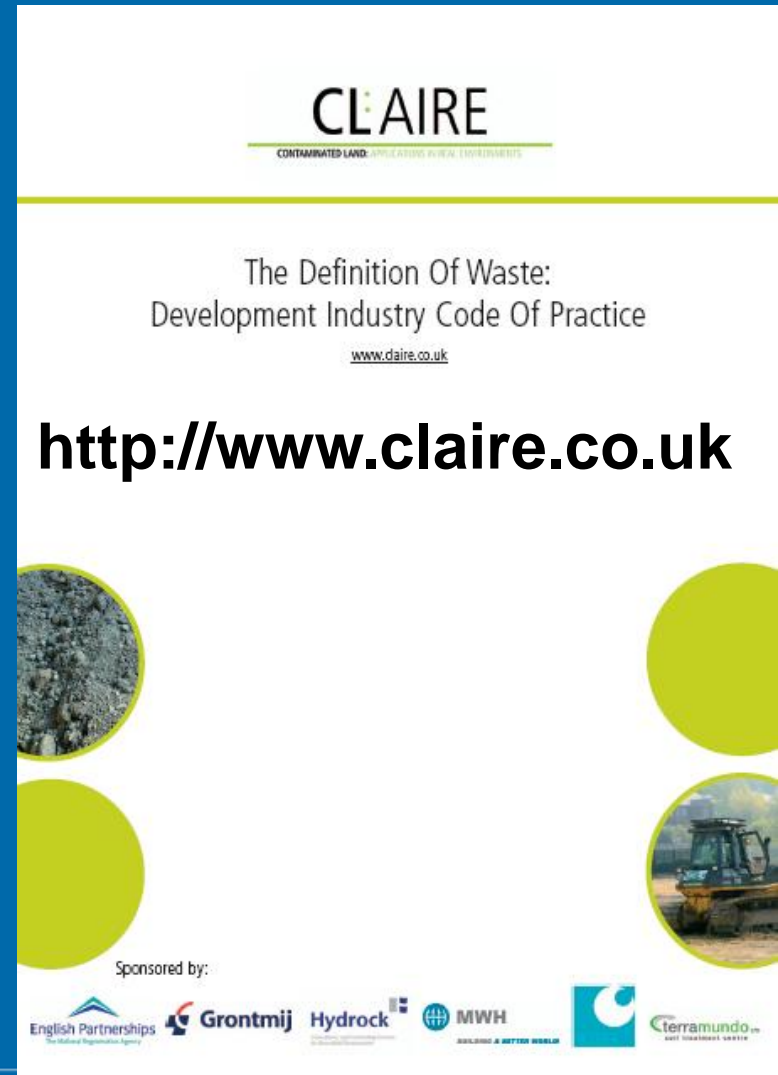
Waste Protocols Project

Uncontaminated topsoil

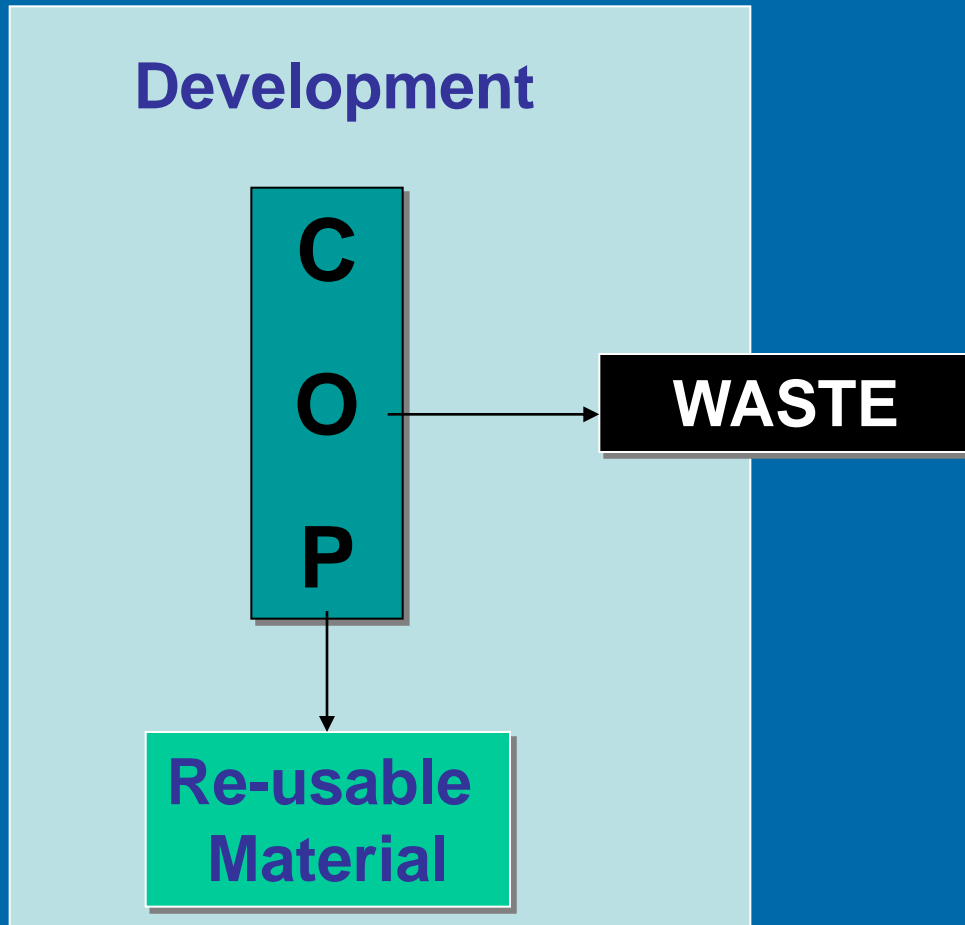
A technical report on the use of both naturally occurring and manufactured uncontaminated topsoil

End result = CL:AIRE Code of Practice

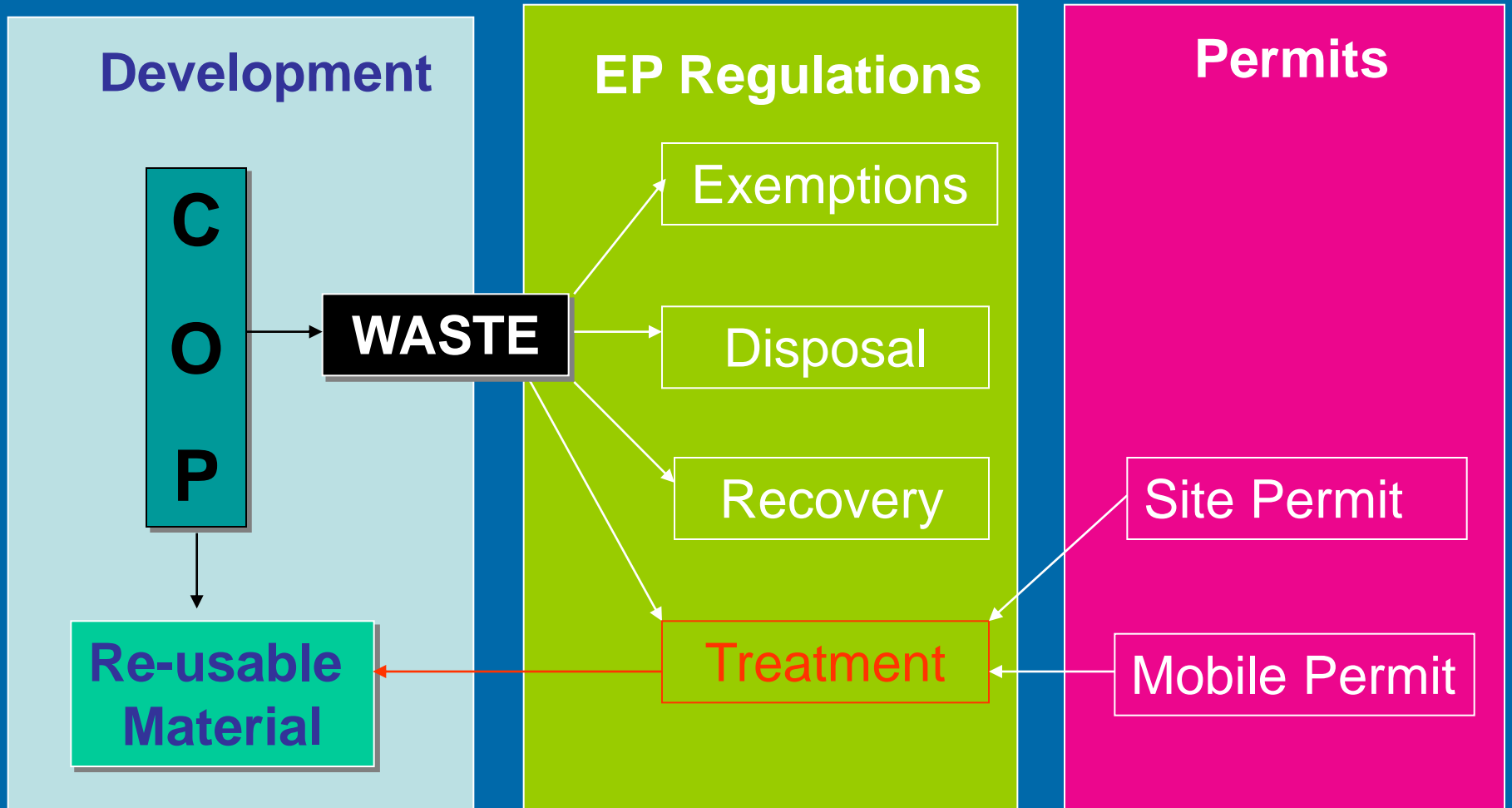
- ➔ Produced by CL:AIRE and the Development Industry with our input and support
- ➔ Voluntary Code linked to better regulation principles
- ➔ Intended for site specific assessments
- ➔ Aimed at assessing the status of “excavated materials” used in earthworks/construction



Where does CoP fit in?



Where does CoP fit in?



Scope of CoP (V2) – Excavated Materials

➤ Included Materials & Activities:

- Topsoil, subsoil, parent material & underlying geology
- Soil and mineral based dredgings**
- Madeground
- Source segregated aggregate**
- Earthworks, landscaping and drainage works

➤ Excluded Materials & Activities:

- General Construction & Demolition Waste
- Management of extractive wastes within the meaning of the Mining Waste Directive
- Landspreading activity for the purpose of agricultural or ecological benefit
- Disposal activities
- Offsite reuse of Knotweed contaminated soil**

Scope of CoP (V2) – Scenarios

➔ Reuse on Site of production:

- ➔ Applicable to both contaminated/uncontaminated materials
- ➔ NB – WFD exclusion for “....”

➔ Hub and Cluster projects

- ➔ Applicable to both contaminated/uncontaminated materials
- ➔ Materials from donor sites recovered at a permitted hub site and re-used as non-waste at receiver sites.

➔ Direct Transfer Projects (*New*)

- ➔ Applicable only to “clean naturally occurring soil and mineral materials”
- ➔ Can cover soils with elevated concentrations of naturally occurring substances

How Does the CoP Work?

- ➔ Developer decides to follow CoP
- ➔ Lines of evidence put together to justify re-use of excavated materials within a development as non-waste (suitability, quantity, certainty etc.)
- ➔ Qualified person employed to audit the evidence and confirm that CoP has been followed.
- ➔ Declaration signed by QP and submitted to EA PSC prior to materials reuse.

What are the lines of evidence?

➔ Materials Management Plan

- ➔ Details of relevant parties

- ➔ Materials quantities, specifications and location of use

- ➔ Tracking measures & Contingency Measures

- ➔ Verification plan

➔ Risk Assessment

➔ Design Statement / Remediation Strategy

➔ Planning Permission / Consent

➔ Correspondence with regulators / no objections

What is a Qualified Person?

- ➔ A Qualified Person (QP) is someone who:
 - ➔ Has corporate authority
 - ➔ Professional standing
 - ➔ Relevant Qualifications / Training
 - ➔ Experience
 - ➔ Independent
 - ➔ Registered

- ➔ Checks the audit trail & signs off the Declaration

What is the EA's role?

- ➡ GWCL – Agree Remediation standards**
- ➡ PSC – Receive Declarations and notify Area teams
- ➡ NPS – Issue permits /deployments for “hub-sites”
- ➡ EM – Approve cluster projects & Inspect permitted activities

Whats the outcome?

- ➔ If we receive a declaration we will take the view that the materials are not waste
- ➔ This frees up our resources to monitor higher risk activities not subject to declarations (better regulation)
- ➔ However we will continue to monitor the effectiveness of the Cop and respond to any complaints of mis-use / pollution accordingly!

Key References:

- ➡ CL:AIRE – The definition of waste: development industry code of practice (www.claire.co.uk)
- ➡ Environment Agency Position Statement PS006 (www.environment-agency.gov.uk)

Questions?