

25 August 2022

Penny Bryant
Cambridgeshire and Peterborough Association of Local Councils

Our Reference: Cambs 22/387
Your Reference: Melbourn/02

By email only: helpdesk@capalc.org.uk

Dear Penny,

Re: Client: Melbourn Parish Council
Subject Matter: Contaminated land

I have been allocated this request to advise upon and I have seen your email dated 17 August 2022.

The issue in this request is what action the Parish Council should take in respect of contaminated land used for allotments.

The Parish Council lets out land for allotments and has received reports of asbestos on the land. The area was near a previous asbestos manufacturing plant. The Parish Council has received advice from the National Allotment Society (NAS) to the effect that the land and produce are safe but further material should be removed. I do not know the basis for the advice from the NAS and I cannot comment upon it.

The legal position is that as land owner the Parish Council is responsible for the condition of the land that it lets out. Notifying the tenants of the existence of asbestos would help but it would not entirely absolve the Parish Council of responsibility for any harm caused by the contamination.

The Parish Council should get a report from a qualified person about the safety of the land for allotment use. If the report proposes any remedial work the Parish Council should undertake that work and remove the land from allotment use until it is completed. Alternatively, it could permanently remove the land from allotment use.

If the report states that the land is safe to use for allotments without any further action, then the report should be made available to all allotment tenants but it would be wise to allow tenants to terminate their tenancy immediately if they are unhappy with the situation.

If, subsequently, there was any allegation of harm from asbestos on the land the above steps would absolve the Parish Council from any responsibility as it would have acted reasonably and responsibly. If any subsequent information indicates asbestos problems it should be investigated.

I hope that this clarifies the position but if the council requires any further information or advice, please contact NALC again.

Yours sincerely,

Gary Barker
Solicitor
NALC