
**Report of Director for Place and Wellbeing
To
Portfolio Holder for Safer Communities
On
18 September 2017**

**APPROVAL OF THE BROWNFIELD LAND REGISTER AND ASSOCIATED
CONSULTATION**

1. SUMMARY

- 1.1. The Town and Country Planning (Brownfield Land Register) Regulations 2017 requires local planning authorities to prepare and maintain a register of previously developed land that is suitable, available and achievable for residential development (the Register). Sites on this Register can be given 'Permission in Principle'.
- 1.2. The Register is kept in two parts. Part 1 is a list of all brownfield sites which are suitable, available and achievable for residential development. Part 1 includes sites with planning permission and proposed allocations.
- 1.3. Part 2 is a subset of Part 1 and includes any sites that the local planning authority has decided are suitable for 'Permission in Principle'; this would normally be restricted to sites that do not currently have extant planning permission. Before sites can be given 'Permission in Principle' there is a requirement to carry out consultation.
- 1.4. A decision to grant Permission in Principle must be taken in accordance with the development plan unless material considerations indicate otherwise. Account must also be taken of the responses received during the consultation. The Permission in Principle is limited to location, land use and amount of development. Other matters should be considered as part of the subsequent Technical Details Consent.

Key Decision – Yes as the Brownfield Land Register affects more than two wards.

2. RECOMMENDATIONS

To be resolved by Full Council

- (i) That Full Council approve that the list of sites identified in Appendix 1 be included in Part 1 of the Register.

- (ii) That Full Council approve that the list of sites identified in Appendix 2 be proposed for inclusion on Part 2 of the Register and approve the necessary consultation to be held.
- (iii) That Full Council approves amendments to the Terms of Reference of Planning Applications Committee to enable the decision to consult on sites proposed to be included on Part 2 of the Register and the decision to grant Permission in Principle to be taken by Planning Applications Committee.

3. BACKGROUND

- 3.1 As part of their proposals to deliver more homes on brownfield land, the Government have introduced a requirement for local planning authorities to prepare and maintain a Brownfield Land Register. This is a register of previously developed land that meets the criteria identified in the Regulations. Sites on this Register can be given Permission in Principle.
- 3.2 The Register is kept in two parts. Part 1 is a list of all brownfield sites which are suitable, available and achievable for residential development. Part 1 includes sites with planning permission and proposed allocations.
- 3.3 Part 2 is a subset of Part 1 and includes any sites that the local planning authority has decided is suitable for 'Permission in Principle'; this would normally be restricted to sites that do not currently have extant planning permission. Before sites can be given 'Permission in Principle' there is a requirement to carry out consultation and in certain circumstances there may be a requirement to undertake Strategic Environmental Assessment of the Register.
- 3.4 There is a requirement to review the Brownfield Land Register at least annually. This would involve adding in any new sites identified and considering whether they should be included in Part 2 of the Register.
- 3.5 To be included on the Register sites must be:
 - At least 0.25ha or capable of supporting at least 5 dwellings;
 - Suitable for residential development;
 - Available for residential development;
 - Achievable for residential development.
- 3.6 Sites have been identified using the Housing and Employment Land Availability Assessment (HELAA). Through the HELAA sites have already been assessed at a high level for their suitability, availability and achievability for development. Those sites which meet the criteria and are to be included on Part 1 of the Register are identified at Appendix 1. The timing of the annual review of the Brownfield Register will be aligned with work on the HELAA to maximise efficiency.
- 3.7 It is proposed to consult on whether to grant permission in principle to the sites identified in Appendix 2. Granting permission in principle means that the

principle of the location, land use and scale of development would already be approved giving prospective developers greater certainty that development of the site is acceptable. A summary of the consultation requirements can be found in Section 9 below.

- 3.8 The decision to grant permission in principle must be taken in accordance with the development plan unless material considerations indicate otherwise. Account must also be taken of the consultation responses. There is no appeal mechanism for non-inclusion on Part 2 of the Register; landowners and developers are able to submit a traditional planning application and then appeal if a decision was not made or permission were refused.
- 3.9 It is proposed that future decisions related to the Brownfield Register are taken by Planning Applications Committee; this would include both the decision to consult on sites to be proposed to be added to Part 2 of the Register and the decision to grant permission in principle. Planning Applications Committee has the knowledge and experience required to determine planning applications and it is considered that they are well placed to determine whether to make these decisions.
- 3.10 Permission in principle lasts for five years and must be followed by a Technical Details Consent before development can begin. This must be in accordance with permission in principle and, again, must be determined in accordance with the development plan unless material considerations indicate otherwise. There is a right of appeal associated with the Technical Details Consent. It is expected that Technical Details Consents would be determined by Planning Applications Committee.
- 3.11 The Government has produced guidance on the Brownfield Register and Permission in Principle. These can be found at the following locations:

Brownfield Register:

<https://www.gov.uk/guidance/brownfield-land-registers>

Permission in Principle:

<https://www.gov.uk/guidance/permission-in-principle>

4 OPTIONS AVAILABLE

- 4.1. Preparation and maintenance of the Register is not optional. The sites to be included in Part 1 of the Register have been assessed against the criteria identified in the Regulations; there is considered to be limited scope to include additional sites in Part 1.
- 4.2. A decision to consult on sites proposed for inclusion on Part 2 of the Register needs to be made by the local planning authority. There is scope for different sites to be consulted upon. Those proposed for inclusion on Part 2 of the Register are identified in Appendix 2.
- 4.3.

5 RISK ASSESSMENT OF RECOMMENDATIONS AND OPTIONS

Risk	Risk Assessment	Risk Level	Risk Management
Reputation and legal	Failure to prepare and maintain the Register would: <ul style="list-style-type: none"> • not accord with the Regulations; • not assist in the development of previously developed sites; 	Low	Preparation of the Register would remove these risks
Finance and Resource	This is additional work which places an additional burden on the Planning department. The Government has provided additional funding of £14,645 in 2016/17; there will be further grants each year between 2017/18 and 2019/20 but the amount of the grant will be kept under review.	Moderate	It is unclear whether the funding provided will fully cover the costs associated with preparing and maintaining the Register

6. ALIGNMENT TO COUNCIL PRIORITIES

6.1 Preparation and maintenance of the Register will assist with the delivery of new homes and the redevelopment of previously developed land. It will contribute to the priority of thriving, vibrant and sustainable communities.

7. IMPLICATIONS

- (a) Relevant Legislation – Links to the Town and Country Planning (Brownfield Land Register) Regulations 2017 and The Town and Country Planning (Permission in Principle) Order 2017. These require the preparation and maintenance of the Register and set out the process associated with the preparation of the register and the process for the grant of permission in principle
- (b) Human Rights - No impact.
- (c) Equality and Diversity - No impact
- (d) Climate change and environmental sustainability- No impact; the impact of developing sites can be considered through the preparation of the Brownfield Register including determining which sites to add to Part 2 and determining the Technical Details Consent.
- (e) Crime and Disorder - No impact

- (f) Budget /Resource – Results in additional work for which the Government has provided funding of £14,645 in 2016/17. Grants will also be provided for years 2017/18 to 2019/20 but amounts are yet to be confirmed.

8. COMMENTS OF STATUTORY OFFICERS

- (a) Head of Paid Service – No specific comments
- (b) Monitoring Officer – the delegation of the power to decide to consult on sites proposed to be included on Part 2 of the Register and the decision to grant Permission in Principle to the Planning Applications Committee is both lawful and proportionate.
- (c) Section 151 Officer – No specific comments

9. CONSULTATION

As part of granting sites permission in principle there is a requirement for public consultation. This includes:

- sites notices
- Notifying the following groups
 - Parish Councils
 - County Council
 - Organisations/individuals identified in Schedule 4 of Development Management Procedure (England) Order 2015 (c) if relevant
 - Any person, body, authority they would have been required to consult in relation to a planning application

The consultation period ranges between 42 days and 21 days depending on the organisation and whether it is the first time the Brownfield Register has been published.

10. BACKGROUND PAPERS

None

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