

SUBJECT: BROWNFIELD LAND REGISTER

DIRECTORATE: DEPARTMENT OF COMMUNITIES AND ENVIRONMENT

REPORT AUTHOR: TOBY FORBES TURNER, PRINCIPAL PLANNING POLICY OFFICER

1. Purpose of Report

- 1.1
- To provide Executive with an overview of the new requirements of the Town and Country Planning (Brownfield Land Register) Regulations 2017
 - To set out how the Planning Team within DCE will implement the Brownfield Land Register
 - To advise Executive that the Council amends the Constitution to include decision making associated with its forthcoming Brownfield Land Register.

2. Executive Summary

- 2.1 On 16th April 2017 the Government's Town and Country Planning (Brownfield Land Register) Regulations 2017 came into force which introduced a requirement on Local Planning Authorities to publish and maintain a Brownfield Land Register (BLR). Brownfield land refers to land which has previously been developed and is or has been occupied by a permanent structure. The Government's definition of previously developed land is set out in the glossary at Annex 2 of the National Planning Policy Framework (NPPF).
- 2.2 There is a legal requirement for all Local Authorities to comply with the deadline for publication of the register by 31st December 2017. DCLG have published a prescribed format that all local authorities must use to publish their data.

3. Background

- 3.1 The purpose of the BLR is to provide up-to-date, publicly available and consistent information on sites that local authorities consider to be appropriate for residential development having regard to the criteria set out in the aforementioned Regulations. According to DCLG, "*This will provide certainty to developers and communities, encourage investment in local areas, bring forward derelict and underused land for new homes and ultimately speed up the development process*"
- 3.2 Part 1 of the BLR which is mandatory, includes details of all sites within the District which are categorised as previously developed land irrespective of planning status and meet the following criteria:
- The land must be at least 0.25ha and have capacity to accommodate at least 5 dwellings
 - The land must be 'suitable' for residential development

- The land must be 'available' for residential development
- Housing development on the land must be 'achievable'

- 3.3 The terms 'suitable', 'available' and 'achievable' are defined in Regulation 4 of the Brownfield Land Register Regulations. In summary, the terms mean 'suitable' in that there is an existing site allocation, planning permission or permission in principle, or the Council considers that the land would otherwise be suitable for residential development; 'available' in that the landowner has expressed an intention to sell or develop the land or the Council considers it could otherwise be made available; and 'achievable' in that new housing development could realistically be achieved on the land within 15 years. It is for Local Planning Authorities to determine which sites they feel meet these criteria and therefore suitable to be placed on Part 1 of the Register.
- 3.4 There is a legal requirement for all Local Authorities to comply with the deadline for publication of Part 1 of the register by 31st December 2017. DCLG have published a prescribed format that all local authorities must use to publish their data. There also is a requirement to review the Register annually.
- 3.5 Part 2 of the BLR is effectively a subset of Part 1 which allows LPA's to select sites that it considers to be appropriate to grant permission in principle (PiP) for housing led development. This is an additional tool that the Government has created and the Council must carefully considered whether it is beneficial to use it, and if so where. The inclusion of sites on Part 2 of the register is at the Council's discretion and requires a clear, transparent and consistent approach.
- 3.6 The new regulations stipulate very precisely what matters can be taken into account when granting Permission in Principle, and which matters cannot. Crucially, unlike normal planning applications it would usually fall to the Council, and not the developer, to undertake any technical surveys necessary to confirm that a site is suitable and developable. This would have significant resource and financial implications for the authority if the non-statutory Part 2 of the register was pursued at this time.
- 3.7 All sites that are entered into Part 2 of the Register by the LPA are automatically granted 'permission in principle' which cannot be revoked and normally retains that permission for 5 years. Sites can be included in Part 1 which are not in Part 2.
- 3.8 A 'permission in principle' is similar to an outline planning permission, although it is not itself a planning consent. There is a mandatory statutory consultation process the same as planning applications, mandatory publicity requirements including the display of site notice, entry onto the Council's Planning register and a 42 day public consultation period when a Part 2 list is first drafted (and then 21 days at future annual reviews). The Council will take into account matters raised during the consultation to determine whether or not it should be entered into Part 2 of the register.
- 3.9 A 'permission in principle' does not amount to a full planning permission and therefore development cannot commence without additional information being submitted to and approved by the Council. The additional information is known as a 'technical details consent' and is similar to an application for reserved matters.

- 3.10 A 'Permission in Principle' plus a Technical Details Consent equals a full planning permission to build. A 'permission in principle' is valid for a period of five years. Once a site is built out it is removed from the register. After the Council has published its Brownfield land register it is required to review it annually.

4. Implementation of Part 1 of the Brownfield Land Register

- 4.1 The mandatory part of the register (Part 1) must be published by 31st December 2017. The task is currently being carried out by the Principal Planning Policy Officer with support from the DM Team Leader and Planning Manager.
- 4.2 The task comprised of a review of sites that have previously been identified through the Strategic Housing and Economic Land Availability Assessment (SHELAA) which formed part of the evidence base in support of the recently adopted Central Lincolnshire Local Plan. A review of other suitable sites has also been undertaken which meet the Brownfield Land definition criteria.
- 4.3 Following this assessment, 15 sites are proposed to be put forward as sites to be included in Part 1 of the Brownfield Land Register. All these sites are either:
- Allocated housing sites in the Local Plan
 - Allocated regeneration/opportunity area sites in the Local Plan where housing is suitable
 - Sites with an extant planning permission for housing
 - Sites without planning permission but were submitted by landowners as part of the SHELAA for consideration for housing
- 4.4 DCLG have confirmed that the intention is for Brownfield Registers to complement existing information, rather than seek to add significant additional burdens on local authorities. As such, and going forward as part of the annual review of the Brownfield Land Register, a call for sites could be combined with the annual update of the SHELAA. This will ensure that efforts are not duplicated and should make the process straightforward for any landowners wishing to submit a site.
- 4.5 **Implementation of Part 2 of the Brownfield Land Register**
- 4.6 At this point in time no sites are to be put onto Part 2 of the Register. This is due to the focus being on to prepare Part 1 of the Register in order to meet our Legal Requirements plus the considerable time and resources that will need to be spent in order to place sites onto Part 2. This work equates to essentially preparing a site for submission of a planning application with the work an applicant would normally do, instead being carried out by the Local Planning Authority.
- 4.7 As part of the annual review of the Brownfield Land Register further consideration work will be given to Part 2 of the Register in 2018. Planning Committee are best placed to provide the formal Governance of the preparation of the Brownfield Land Register due to the close parallels with the granting of planning permissions. A report on the Register was presented to Planning Committee at their meeting on 8th November 2017.

Amendment to the Constitution

- 4.9 As the Regulations are new legislation, the Council's Constitution requires updating to permit their implementation. A formal decision is therefore required by the Council in respect of where in the Constitution these decision powers should be placed. As the Regulations are intended to deliver outcomes equivalent to the granting of planning permissions, it is proposed that the decisions referring to the Brownfield Land Register should be added to the scheme of delegation to The Planning Committee under Article 3 of the Constitution.
- 4.10 The consultation process required by Part 2 of the Register is very similar to that required by an application for planning permission. It is also therefore proposed that decisions relating to entry of land in Part 2 of the Register be added to the scheme of delegation to The Planning Committee under Article 3 of the Constitution, and be subject of the same 'call-in' procedures applied to applications for planning permission.

5. Strategic Priorities

5.1 Let's drive economic growth

The intention of the Brownfield Land Register is to encourage investment in local areas, bring forward derelict and underused land for new homes and ultimately speed up the development process.

5.2 Let's deliver quality housing

It is intended that the production of Brownfield Land Registers will identify and bring forward sites for housing.

6. Organisational Impacts

6.1 Finance (including whole life costs where applicable)

None at this stage as work relating to Part 1 of the Brownfield Land Register will be delivered from within the Planning Team. However if the Council wishes to pursue Part 2 then significant extra resources in the form of officer time will need to be made available.

6.2 Legal Implications including Procurement Rules

It is a legal requirement for the Council to collate and publish a Brownfield Land Register by 31 December 2017. This report is intended to ensure that the Council complies with these requirements.

6.3 Equality, Diversity & Human Rights (including the outcome of the EA attached, if required)

A full EIA is not required for this report.

7. Risk Implications

7.1 (i) Options Explored

Do not prepare a Brownfield Land Register.

7.2 (ii) Key risks associated with the preferred approach

The Council would be in breach of the legal requirements contained within the 2017 Brownfield Land Register Regulations.

8. Recommendation

8.1 That Executive note this report on the new requirements of the Town and Country Planning (Brownfield Land Register) Regulations 2017.

8.2 That Executive note how the Planning Team within DCE will implement the Brownfield Land Register.

8.3 That Executive recommend that the Council amends the Constitution to include decision making associated with its forthcoming Brownfield Land Register.

Is this a key decision?

No

Do the exempt information categories apply?

No

Does Rule 15 of the Scrutiny Procedure Rules (call-in and urgency) apply?

No

How many appendices does the report contain?

None

List of Background Papers:

None

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