

Committee: Cabinet

**Date: 30
November 2017**

Title: Brownfield Land Register

**Portfolio Holder: Councillor Susan Barker, Cabinet Member
for Environmental Services**

Key decision: No

Summary

1. The Council is obliged (under the Brownfield Land Register Regulations 2017) to publish a “brownfield land register” by 31 December 2017. This report explains the nature of the register and seeks delegated authority for officers to compile and publish the initial version of the register.

Recommendations

2. That the Assistant Director – Planning is given delegated authority to compile the initial version of Part 1 of the Council’s Brownfield land register for publication.

Financial Implications

3. The Government provided a new burdens grant payment of £14,645 for 2016/17. Local planning authorities will receive further grant payments for 2017/18, 2018/19 and 2019/20. We have not yet been notified as to the amount of funding.

Background Papers

4. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.

None

Impact

5.

Communication/Consultation	Sites for part 1 of the register have already been subject to consultation either through a planning application or through the publication of the Strategic Land Availability Assessment. Sites for Part 2 of the register will be subject to consultation in accordance with the regulations
Community Safety	n/a
Equalities	n/a
Health and Safety	n/a

Human Rights/Legal Implications	The Council has a statutory obligation to publish Part 1 of its Brownfield Land Register by 31 December 2017.
Sustainability	The purpose of the register is to promote and encourage the development of brownfield land.
Ward-specific impacts	All
Workforce/Workplace	n/a

Situation

6. The Council is obliged to publish a brownfield land register by 31 December 2017. It then must review the register at least every 12 months. DCLG guidance describes the purpose of the register as being to:

“provide up-to-date and consistent information on sites that local authorities consider to be appropriate for residential development having regard to the criteria set out in [the regulations].... Local planning authorities will be able to trigger a grant of permission in principle for residential development for sites in their registers where they follow the required procedures. “

7. The register comprises 2 parts. Part 1 of the brownfield land registers will include brownfield (or “previously developed”) sites that are suitable for development. Part 2 of the register will list those sites in Part 1 that the local planning authority has decided would be suitable for a grant of permission in principle for residential development. Responsibility for the compilation of Part 1 is a Cabinet function. Responsibility for Part 2 cannot be a Cabinet function and would sit well with the Planning Committee.
8. The definition of brownfield (or previously developed) land is:

“Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.”

9. This report focuses on publication of Part 1 of the register.

Part 1 of the Register

10. Part 1 of the register will be made up of all brownfield sites that the Council has assessed as appropriate for residential development. This will include sites with extant full planning permission, outline planning permission and permission in principle as well as sites without planning permission.
11. The Council must include land in Part 1 of the register if it meets certain criteria. These are:
- (a) the land has an area of at least 0.25 hectares or is capable of supporting at least 5 dwellings (although there is a discretion to include smaller sites);
 - (b) the land is suitable for residential development;
 - (c) the land is available for residential development; and
 - (d) residential development of the land is achievable.
12. Land is “**suitable for residential development**” if it:
- (a) has been allocated in a local development plan document for residential development;
 - (b) has planning permission for residential development;
 - (c) has a grant of permission in principle for residential development; or
 - (d) is, in the opinion of the Council, appropriate for residential development, having regard to—
 - (i) any adverse impact on the natural environment or the local built environment, including in particular on heritage assets;
 - (ii) any adverse impact on the local amenity which such development might cause for intended occupiers of the development or for occupiers of neighbouring properties; and
 - (iii) any relevant representations received.
13. Land is “**available for residential development**” if:
- (a) the owner has expressed an intention to sell or develop the land;
 - (b) a developer in control of the land has expressed an intention to develop it; or
 - (c) in the opinion of the Council there are no issues relating to the ownership of the land or other legal impediments which might prevent residential development of the land taking place.
14. Residential development of the land is “**achievable**” if, in the Council’s opinion, the development is likely to take place within 15 years.
15. Inclusion in Part 1 of the Register does not give any direct development rights to a landowner or developer. It is, however, the “gateway” to inclusion in Part 2 of the Register. By itself, it allows easy identification of brownfield sites on which residential development is suitable, available and achievable.

Part 2 of the Register

16. Part 2 of the Register will comprise only those sites in Part 1 that the Council has decided would be suitable for a grant of “permission in principle” for residential development. The permission in principle consent route is an alternative way of obtaining planning permission which separates the consideration of matters of principle for proposed development from the technical detail of the development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle for residential development (i.e. development in which the residential use occupies the majority of the floor space), and the second (‘technical details consent’) stage is when the detailed development proposals are assessed.
17. Inclusion in Part 2 of the Register gives “permission in principle”, with an applicant only needing to apply for “technical details consent” before commencing development. Where permission in principle is granted through allocation on a brownfield land register, the default duration of that permission is 5 years. Not all sites are eligible for inclusion in Part 2 of the Register.
18. Land can only be included in Part 2 if the Council first complies with detailed requirements for consultation, notification and consultation. The deadline of 31 December 2017 does not apply to Part 2 of the Register but the Council needs to put arrangements in place to allow for entries in Part 2 where appropriate. The inclusion of sites in Part 2 cannot be the responsibility of the Cabinet. Officers intend to ask Council to delegate responsibility to the Planning Committee.

Compiling Part 1 of the Register

19. Paragraph 11 sets out the criteria for inclusion of sites in Part 1 of the Register. The proposed approach to the first publication of the Register is to include:
 - sites which meet the criteria and have extant planning permission or planning permission subject to signing of section 106.
 - sites identified in the Strategic Land Availability Assessment which meet the criteria. Members will recall that each of the sites submitted through the call for sites were assessed for their suitability, availability and achievability. These sites have been published on the website since December 2015 and in February 2016 an officers’ assessment of the sites was published and comments sought from the site promoter and Town and Parish Councils.
20. No other sites will be included at this stage.
21. Given the administrative nature of the exercise as described in paragraph 19, the report recommends that the Cabinet gives delegated authority to the Assistant Director – Planning to compile the initial version of Part 1 of the Council’s Brownfield land Register for publication.
22. The first review of the register can take place in April 2018 bringing it in line with the annual monitoring of residential development and the housing trajectory. Although there is no statutory requirement for consultation before including sites in Part 1 of the Register, officers will develop proposals for consultation regarding

the inclusion on the register of sites at that stage that do not have the benefit of planning permission, and will report further to Cabinet.

Risk Analysis

23.

Risk	Likelihood	Impact	Mitigating actions
That the register is not published by 31 December 2017	Low	Information on brownfield sites is not available for developers / site promoters.	Ensure resources are made available to enable the publication of the first register by 31 December 2017 which can be reviewed April 2018.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.