

WIRRAL COUNCIL

EXECUTIVE BOARD 7th JUNE 2007

REPORT OF THE DEPUTY CHIEF EXECUTIVE/DIRECTOR OF
CORPORATE SERVICES

**HM TREASURY - TAX INCENTIVES FOR DEVELOPMENT OF
BROWNFIELD LAND – A CONSULTATION – WIRRAL RESPONSE**

1. Executive Summary

- 1.1 Her Majesty's Treasury has issued a consultation paper on Tax incentives for the development of brownfield land (http://www.hm-treasury.gov.uk/media/708/BD/bud07_taxincentives_256.pdf). The consultation supports Government policy to increase housing land supply, maintain commitment to the best use of existing land resources and remove dereliction and contamination. The Barker Review of Housing Supply (2004) recognised that previously developed (brownfield land) was more expensive to develop than greenfield sites but offered regeneration benefits. HM Treasury requires responses by 14th June 2007.
- 1.2 In light of the Council's commitment to the regeneration of Wirral and the protection of greenfield and Green Belt sites from inappropriate development, Cabinet is recommended to support the proposals in the consultation paper. These include the need to promote the use of land remediation tax relief and to support the identification of derelict land through the National Land Use Database.

2. Consultation Paper

- 2.1 The consultation paper addresses a series of issues and poses a number of questions for consultees.

Long-term Derelict Land

- 2.2 With an increasing focus on urban regeneration and industrial restructuring, there has been a need to consider development of derelict and underused land. Many of the easiest sites to remediate have already been developed, leaving some of the most intractable long-term derelict land sites.
- 2.3 In the past, Wirral had an effective Derelict Land reclamation programme but this has been severely reduced in recent years, as priorities have changed for public agencies such as English Partnerships and the North West Development Agency. The consultation paper proposes better use of Land Remediation Relief for the private sector (introduced in 2001) as

a means of bringing forward contaminated and long-term derelict land sites.

Land Remediation Relief

- 2.4 The Barker Review recommended that fiscal incentives should be used to encourage the efficient use of urban land, recognising that brownfield land is typically more costly and difficult to assemble and build on than greenfield land.
- 2.5 The proposals in the consultation paper include that Land Remediation Relief should be provided at a rate of 150% for certain expenditure on long-term derelict sites, thereby improving the economic viability of development and helping land owners bring sites back into use.
- 2.6 The consultation paper proposes that the inclusion of long-term derelict land sites on the National Land Use Database (NLUD, first prepared on 31st March 1998) would qualify a site for consideration for Land Remediation Relief. This would act as an incentive to landowners to ensure that land was registered and was truly derelict.
- 2.7 The NLUD database has been used by the Council since 1998, replacing the Derelict Land Surveys previously carried out by the Council. Many of the sites on the database are long-term derelict or underused and the incentive provided by Land Remediation Relief may bring forward many of these difficult sites for development. Many of the sites are in the Council's Regeneration Priority Areas, including the Housing Market Renewal Area and the tax relief may bring about an environmental benefit.
- 2.8 The consultation paper proposes that Land Remediation Relief could be used to offset expenditure on:
 - Demolition and removal of existing structures, buildings or other works, including those located underground;
 - Removing or making good obsolete services such as electricity, water, sewerage or gas;
 - Creating adequate access to the site; and
 - Fees and other costs directly related to the above.
- 2.9 When the Government introduced Land Remediation Relief in 2001, it was intended to improve the viability of development on contaminated sites. However, there was no onus on landowners to develop the land. Therefore a proportion of the relief has gone to owners with no new development resulting or in prospect.
- 2.10 The consultation paper asks whether conditions on planning permissions could be used to ensure that development occurs. This could be subject of a planning condition, or a section 106 obligation.

Japanese Knotweed

- 2.11 Japanese Knotweed (*Fallopia Japonica* and closely related species) is an invasive plant species that colonises waste ground, which was introduced into the UK in the nineteenth century. It is particularly damaging, as it can cause structural damage and push through paving and tarmac. Many planning permissions now include conditions for Japanese Knotweed treatment and removal, following appropriate specialist surveys.
- 2.12 It is an offence under section 14(2) of the Wildlife and Countryside Act 1981 to plant or otherwise cause Japanese Knotweed to grow in the wild. Because the seeds and spores of the plant are highly invasive and persistent, the plant and soil containing it is also controlled waste, subject to the Environmental Protection Act 1990. When treated with herbicide, material containing Japanese Knotweed is subject to the Hazardous Waste Regulations 2005.
- 2.13 Because of the very serious nature of Japanese Knotweed infestation, the Government proposes that Land Remediation Relief might be extended to schemes for the control and removal of the plant.

Landfill Tax and the Contaminated Waste Exemption

- 2.14 Landfill tax was introduced in 1996, with a sliding scale of charges from £7 per tonne of waste taken to landfill in 1996 to £24 per tonne at 1st April 2007. Members will be aware of the need to minimise the burden of the landfill tax and the consequent need to reduce the amount of waste going to landfill.
- 2.15 Waste from contaminated sites has been exempt from landfill tax, in order to encourage the remediation of such sites. In 1996, most waste from contaminated sites was landfilled, due to the lack of alternatives and because of the regime for landfill sites.
- 2.16 In more recent years, on-site treatment of contaminated materials has improved, reducing the transport and landfill disposal costs of remediating contaminated sites. The Landfill Directive has imposed new requirements for pre-treatment of wastes going to landfill. From 30th October 2007, all waste going to landfill will have to be treated and no liquid wastes will be able to be landfilled.
- 2.17 Due to the improvements in technology and the increased regulation over landfill sites, the Government proposes to end the Landfill Tax exemption for wastes from contaminated sites. The money saved on payments and administration could be channelled into support towards the direct remediation of contaminated sites.

3. Directors Conclusions

- 3.1 The Government's proposals to provide Land Remediation Tax Relief for long-term derelict and contaminated land are to be welcomed, in order to bring long-term derelict and contaminated land into beneficial use. There must be concern however, that owners and developers do not see the Relief provisions as a means of remediating the least difficult and uncontaminated derelict sites, leaving the most difficult contaminated sites untreated.
- 3.2 I support inclusion of sites on the National Land Use Database as a qualifying criterion for long-term derelict land sites. The Council has included all identified derelict land on the database. The lack of a completely comprehensive register of contaminated land will lead to some uncertainty about the full extent of contamination but existing methods of identifying contaminated sites should provide sufficient data about such sites. In any event, the Government will expect full justification from potential developers and landowners for any Land Remediation Relief.
- 3.3 It is not clear from the consultation how the Land Remediation Relief payments will be managed. Will they be managed through English Partnerships or the Environment Agency? There is no suggestion within the consultation paper that Local Authorities will have to certify works. Whilst Local Authorities have to monitor planning condition compliance on such issues as Japanese Knotweed, there is normally an indemnity insurance between consultants providing schemes for treating Japanese Knotweed infestation and client developers. The consultation paper is silent on the liability implications of Land Remediation Relief. Presumably, liability is governed by the contractual relationship between landowner and developer. There should be no increase in risk for Local Authorities from any engagement in the Land Remediation Relief process.
- 3.4 If the Government intends that Local Authorities should manage the Land Remediation Relief, then resources will have to be identified and made available to Local Authorities by the Government.
- 3.5 The use of conditions and section 106 obligations is supported, as these will ensure that development of long-term derelict and contaminated sites is carried out and not merely their treatment.
- 3.6 Clarity is required from the Government about the use of the term 'contaminated land'. There is a definition in Part IIA of the Environmental Protection Act 1990, which refers to statutorily contaminated land. There is as yet no statutorily defined contaminated land in Wirral.

4. Financial and Staffing Implications

- 4.1 It is recommended that there should be no further financial burden on the Council from the implementation of an improved Land Remediation Relief payment scheme.
- 4.2 The identification of long-term derelict sites is already carried out by staff in the Regeneration and Corporate Services Departments. No additional work should be carried out as a result of the Government's proposals.
- 4.3 If the Government intends that additional work should be carried out by Local Authorities to identify further contaminated land, then appropriate resources should be made available directly to Local Authorities to augment that work already carried out in addressing contamination issues. There is no certainty from the consultation paper that such extra resources would be made available to Local Authorities.

5. Equal Opportunity Implications

- 5.1 There are no equal opportunity implications arising directly from this report.

6. Human Rights Implications

- 6.1 There are no human rights implications arising directly from this report.

7. Community Safety Implications

- 7.1 The treatment and removal of long-term derelict and contaminated land will result in improvements to Community Safety by remediating and bringing into beneficial use, potentially harmful sites

8. Local Agenda 21 Implications

- 8.1 The treatment and removal of long-term derelict and contaminated land will result in the improvement of local environments in some of Wirral's most deprived communities. Reduction in the amount of waste material being taken to landfill from contaminated sites and an increase in on-site treatment and recycling/re-use will reduce transport movements, saving non-renewable fuel usage.

9. Planning Implications

- 9.1 Planning conditions for the control and treatment of Japanese Knotweed infestations are already in use. Further conditions and section 106 obligations for the remediation of long-term derelict and contaminated sites will be required, as will monitoring of those conditions and obligations. The remediation of long-term derelict and contaminated sites for beneficial uses will assist in promoting the Council's planning strategies for the maximum re-use of previously developed land and sustainable development.

10. Background Papers

10.1 The following background paper has been used in the preparation of this report:

- (i) Tax incentives for development of brownfield land – a consultation (HM Treasury, March 2007)
http://www.hm-treasury.gov.uk/media/708/BD/bud07_taxincentives_256.pdf

11. Recommendation

That this report forms the basis of the Council's formal submission on the HM Treasury consultation on Tax Incentives for Development of Brownfield Land.

J Wilkie

Deputy Chief Executive/Director of Corporate Services

This report has been prepared by Richard Lewis of the Forward Planning Section, who can be contacted on 691 8222.