

**COUNCILLOR GEORGE
DAVIES**

CABINET MEMBER FOR
HOUSING AND COMMUNITY
SAFETY AND DEPUTY LEADER
OF THE COUNCIL

DELEGATED REPORT

**STATUTORY REGISTER OF
BROWNFIELD LAND**

REPORT SUMMARY

The Town & Country Planning (Brownfield Land Register) Regulations 2017 require the Local Planning Authority to prepare and maintain a statutory register of previously developed land within Wirral in two parts.

Part 1 of the Register is to include land with an area of at least 0.25 hectares or capable of supporting 5 or more dwellings, which is suitable, available and achievable for new housing development.

Part 2 of the Register is to include sites taken from Part 1 where permission in principle would be granted by the Town & Country Planning (Permission in Principle) Order 2017 for a range of dwellings to be specified by the Local Planning Authority, subject to the further submission and approval of technical details consent.

Details of the potential sites for inclusion in Part 1 of the Register are appended to this report for approval for public consultation. Following the approval of the list of sites to be included in Part 1, Planning Committee will need to decide whether to allocate land for residential development in Part 2 of the Register, after statutory procedures and consultation have been carried out.

The Register must, this year, be published by no later than Friday 22 December 2017 and must thereafter be subject to at least annual review.

Identification of sites on the Brownfield Land Register could help to support the delivery of good quality housing in line with the Wirral Plan, which sets the objective of building 3,500 new homes by 2020.

The decision is a key decision as it could affect all Wards within the Borough.

RECOMMENDATION/S

- 1. That the Assistant Director of Environmental Services is authorised to prepare, maintain and publish a statutory Brownfield Land Register of previously developed land suitable for housing development in accordance with the relevant national legislation.**
- 2. That the sites listed in Appendix 1 and shown in Appendix 2 to this report are published for public consultation and that any responses are taken into account by the Assistant Director of Environmental Services before formally entering the land in Part 1 of the Brownfield Land Register for Wirral and making the Register**

available for public inspection on the Council's website and at the principal office of the Local Planning Authority.

3. That following the inclusion of sites in Part 1 of the Brownfield Land Register, Planning Committee determines which sites should be allocated for residential development, subject to the procedures set out in national legislation, before entering land in Part 2 of the Brownfield Land Register.
4. That the Brownfield Land Register be reviewed by Planning Committee at least every 12 months, in line with the requirements set out in national legislation and that during this review, any additional sites which meet the criteria for inclusion in Part 1 and where relevant Part 2 are added and sites that have been developed or which are no longer suitable are removed.
5. That this report is referred to Planning Committee for noting.
6. That Council is recommended to make the necessary amendments to the delegated powers for Planning Committee and the Assistant Director of Environmental Services in the Council's Constitution to reflect the new requirements set out in recommendations 1, 3 and 4 above.

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 To comply with the legal and procedural requirements in the Town & Country Planning (Brownfield Land Register) Regulations 2017.
- 1.2 The Brownfield Land Register will also demonstrate the Council's ongoing commitment to support regeneration and contribute to meeting the Borough's housing needs on previously developed sites.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 Not preparing an up-to-date Brownfield Land Register would contravene a legal duty introduced by section 151 of the Housing and Planning Act 2016 and enacted through the Town & Country Planning (Brownfield Land Register) Regulations 2017.

3.0 BACKGROUND INFORMATION

- 3.1 National regulations introduced under Section 151 of the Housing and Planning Act 2016 now require each local planning authority to prepare, maintain and publish a statutory Brownfield Land Register by 31 December 2017, to provide information on previously developed land that would be suitable, available and achievable for new housing development as defined in national regulations.
- 3.2 The definition of 'previously developed land' is currently as set out in Annex 2: Glossary of the National Planning Policy Framework (March 2012).
- 3.3 'Suitable' means the land has been allocated in a development plan, has obtained planning permission or permission in principle for residential development or is "in the opinion of the local planning authority, appropriate for residential development", having regard to any adverse impact on the natural environment, the local built environment and local amenity (Regulation 4(2) refers).
- 3.4 'Available' means that the relevant owner has expressed an intention to sell or develop the land; a developer has expressed an interest to develop the land; and there is no evidence indicating a change to those intentions or "in the opinion of the local authority 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" (Regulation 4(2) refers).
- 3.5 'Achievable' means that "in the opinion of the local planning authority, the development is likely to take place within 15 years" of the date the site was entered on the Register (Regulation 4(2) refers).
- 3.6 Decisions must be made having regard to publicly available information and any relevant representations received (Regulation 4(2) refers).
- 3.7 The Register must have two parts (Regulation 3(4) refers). Part 1 of the Register must contain suitable, available and achievable sites with an area of at least 0.25 hectares or which are capable of supporting at least 5 dwellings (Regulation 4(1) refers). There

is no requirement for public consultation before entering land in Part 1 of the Register (Regulation 5(6) refers), but it is recommended that consultation is undertaken on the sites which are proposed for inclusion in the first publication of the Brownfield Land Register (paragraphs 8.1 and 8.2 later in this report refer).

- 3.8 Part 2 of the Register must contain the sites from Part 1 that the local planning authority has decided to allocate for residential development, where permission in principle would be granted by virtue of Article 4 in the Town & Country Planning (Permission in Principle) Order 2017, subject to a further application for technical details consent being determined within 5 years.
- 3.9 Sites can only be entered in Part 2 having followed the procedures for publicity, consultation and notification set out in Regulations 6 to 13, subject to the exemptions for certain types of land set out in Regulation 14, which include development which may be subject to Environmental Impact Assessment and Habitats Regulations Assessment.
- 3.10 Planning conditions and obligations can only be applied at the technical details stage, when matters of detailed design and infrastructure requirements can be considered. The Local Planning Authority can, however, choose to provide additional information on what they expect to see as part of an application for technical details consent when deciding to enter a site in Part 2 of the Register.
- 3.11 Cabinet initially considered a proposal to establish a brownfield register on 10 September 2015 ([Minute 48 refers](#)) and resolved that the register and any related development consents should be reviewed and determined by Planning Committee. That report predated the issuing of the 2017 Regulations. It is however, still considered appropriate that following public consultation on the initial list of sites now proposed to be included in Part 1 of the new statutory Register (attached at Appendix 1 and Appendix 2 to this report), that the Brownfield Land Register for Wirral becomes the formal responsibility of Planning Committee.

4.0 FINANCIAL IMPLICATIONS

- 4.1 The Council received a new burdens grant payment of £14,645 in March 2017. Further grant payments are planned for 2017/18, 2018/19 and 2019/20 but the amount of funding will be kept under review from 2016/17 onwards.
- 4.2 No fee is payable to the Council for entering a site in either Part of the Register. There could therefore be a consequential reduction in the income from planning fees for sites included in Part 2 of the Register, if fewer outline planning applications are submitted.
- 4.3 Additional funding may be required for the Council to resolve any unexpected environmental constraints, including statutory screening appraisals for Environmental Impact Assessment and Habitats Regulations Assessment, if required, before a particular site could be entered into Part 2 of the Register.
- 4.4 The land value of sites in Part 2 of the Register could increase, as the risk to developers would be reduced through the grant of permission in principle for a fixed range in the number of dwellings.

- 4.5 The fee payable to the Council for an application for technical details consent for sites granted permission in principle through Part 2 of the Register is still to be defined through future legislation, which has not yet been published.

5.0 LEGAL

- 5.1 There is a statutory requirement to prepare, maintain and publish a Brownfield Land Register by 31 December 2017 under Regulation 3 of Town & Country Planning (Brownfield Land Register) Regulations 2017. In order to meet this requirement the Register must be published no later than Friday 22 December 2017, due to the closure of Council offices over Christmas
- 5.2 The Register must contain the information specified in Schedule 2 of the Regulations and must be kept available for public inspection at the principal office of the local planning authority.
- 5.3 The entries in the Register must be reviewed at least every 12 months, in accordance with the requirements of Regulation 17.
- 5.4 Sites can be included in Part 1 if suitable, available and achievable for new housing development (within the terms of Regulation 4)
- 5.5 Sites can, however, only be included in Part 2 if identified in Part 1 and representations following statutory publicity and consultation have been taken into account (within the terms of Regulation 5).
- 5.6 The decision to enter a site in Part 2 of the Register must be made in accordance with the local Development Plan unless material considerations indicate otherwise. Sites where development is likely to have a significant environmental impact or significant effect on a qualifying European nature conservation site must not be included (within the terms of Regulation 14).
- 5.7 Any permission in principle granted by virtue of inclusion in Part 2 will remain valid for 5 years during which development will only be permitted subject to the additional submission and approval of technical details consent.
- 5.8 Applications for technical details consent must be determined in accordance with the permission in principle.
- 5.9 Proposals outside the range of development specified in Part 2 of the Register will require a planning application to be submitted, determined in the normal way.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

- 6.1 Entering a site in Part 2 of the Brownfield Land Register could require the Council to undertake work up front that would previously have been done by landowners and their agents as part of a planning application.
- 6.2 The preparation, maintenance and review of the Brownfield Land Register can be undertaken by existing staff resources within Forward Planning and IT, subject to the receipt of new burdens grant payments.

- 6.3 Future applications for technical details consent will need to be processed by existing Development Management staff resources, subject to a fee to be set through national regulations.

7.0 RELEVANT RISKS

- 7.1 Although permission in principle may help to reduce uncertainty for developers, the inability to access finance and generate sufficient development surpluses may still not be addressed. There is therefore a risk that development will still not be delivered, particularly on challenging sites.
- 7.2 Not consulting on the sites to be included in Part 1 of the Brownfield Land Register could lead to the public not being aware of the initial process that could lead to potential development proposals on sites which could affect the amenity and the character of their area.

8.0 ENGAGEMENT / CONSULTATION

- 8.1 Before including land in Part 1 of the Brownfield Land Register the Regulations allow for procedures, including consultation to be carried out as the Local Planning Authority sees fit and any representations received within such period as the Authority may specify must be taken into account (Regulation 5(6) refers).
- 8.2 It is therefore recommended, in line with the Council's existing requirements for emerging site-specific proposals set out in the Council's Statement of Community Involvement adopted in March 2014 (SCI, paragraph 3.52, page 16 refers), that the first set of sites set out in Appendix 1 and shown in Appendix 2 are published for public consultation for a period of no less than six weeks and that any representations will be taken into account before entering any of the sites in Part 1 of Brownfield Land Register.
- 8.3 Consultation will include publication on the Council's website, deposit in public libraries, notification to those on the Council's Local Plan database; public notices in the Wirral Globe and Wirral View and notification letters to neighbours immediately adjacent to the specific sites identified in Appendix 1 .
- 8.4 Before the Local Planning Authority includes land in Part 2 of the Brownfield Land Register they must follow the statutory procedures for publicity and notification set out in Regulations 6 to 12, including notification by site notice and publication on the Council's website.

9.0 EQUALITY IMPLICATIONS

- 9.1 The inclusion of land in Part 1 of the Brownfield Land Register is unlikely to have any significant equality implications as it will not grant development consent.
- 9.2 Inclusion of land in Part 2 of the Register could have equality implications depending on the nature, scale and potential impact of any future development. Potential impacts would be considered on a case by case basis and decisions must be taken in

accordance with the Council's adopted Development Plan unless material considerations indicate otherwise following statutory consultation.

9.3 Brownfield sites are more likely to be located in deprived areas but the Brownfield Land Register may contribute towards stimulating their development and beneficial use.

9.4 The relevant Equality Impact Assessment can be viewed at <https://www.wirral.gov.uk/communities-and-neighbourhoods/equality-impact-assessments/equality-impact-assessments-2017/delivery>

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APPENDICES

Appendix 1 – List of Sites Proposed to be Included in Part 1 of the Brownfield Land Register.

Appendix 2 – Map of Sites Proposed to be Included in Part 1 of the Brownfield Land Register

REFERENCE MATERIAL

Housing and Planning Act 2016 (Section 151) can be viewed at <http://www.legislation.gov.uk/ukpga/2016/22/section/151/enacted>

The Town and Country Planning (Brownfield Land Register) Regulations 2017 can be viewed at <http://www.legislation.gov.uk/uksi/2017/403/made/data.pdf>

The Town and Country Planning (Permission in Principle) Order 2017 can be viewed at <http://www.legislation.gov.uk/uksi/2017/402/made/data.pdf>

Brownfield Land Registers Data Standards (July 2017) can be viewed at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/633593/BrownfieldLandRegisters-DataStandard.pdf

National Planning Practice Guidance (July 2017) can be viewed at <https://www.gov.uk/guidance/brownfield-land-registers>

Definition of Previously Developed Land (NPPF, March 2012) can be viewed at https://www.planningportal.co.uk/directory_record/444/previously_developed_land_or_brownfield_land

The Council's existing adopted Statement of Community Involvement (March 2014) can be viewed at <http://www.wirral.gov.uk/planning-and-building/local-plans-and-planning-policy/community-involvement-local-planning/statement>

SUBJECT HISTORY (last 3 years)

| Council Meeting | Date |
|--|-------------------------------|
| Cabinet: Building More Housing on Brownfield Land | 10 September 2015 (Minute 48) |
| Planning Committee: Building More Housing on Brownfield Land (referral from Cabinet) | 21 October 2015 (Minute 99) |