

**PLANNING COMMITTEE – 15 NOVEMBER 2018**

<b>SUBJECT:</b>	<b>STATUTORY REGISTER OF BROWNFIELD LAND ANNUAL REVIEW</b>
<b>WARD/S AFFECTED:</b>	<b>SEACOMBE, PRENTON, ROCK FERRY, PENSBY &amp; THINGWALL, CLATTERBRIDGE, BIRKENHEAD &amp; TRANMERE</b>
<b>REPORT OF:</b>	<b>DIRECTOR FOR ECONOMIC AND HOUSING GROWTH</b>
<b>KEY DECISION?</b>	<b>NO</b>

**REPORT SUMMARY**

There is a statutory requirement to review the entries on the Council's register of brownfield sites each year under the Town & Country Planning (Brownfield Land Register) Regulations 2017 which was introduced as part of a Government initiative to encourage investment in new housing and as a mechanism for granting permission in principle on suitable sites instead of obtaining planning permission through a formal planning application.

The Council has therefore asked Planning Committee to consider the Brownfield Register at least every 12 months, to decide whether any sites should be added or removed and to decide whether any sites should be allocated for residential development in Part 2, subject statutory procedures (Council 11 December 2017, minute 96 refers).

The Register can only include land with an area of at least 0.25 hectares or capable of supporting 5 or more dwellings, which is found to be suitable, available and achievable for new housing development in accordance with the Regulations.

There are currently 82 sites with a potential capacity of up 3,626 dwellings in the existing Brownfield Register (published on 22 December 2017, which can be viewed [here](#)).

The review has identified new planning applications at Wirral Waters for Legacy (DLS/18/00715 for 536 apartments) and Belong (APP/18/00470 with 34 independent living apartments). Based on the latest information on schemes for which details are currently available, it is anticipated that 1092 residential units could be delivered over the next five years. This would represent a reduction of 580 from the number of units proposed in previous outline applications at Northbank East (09/05109 and 09/05110), which were recommended for approval subject to legal agreements that were never

signed. It is, therefore, proposed to add the sites where proposals for Legacy and Urban Splash are being considered at Northbank East, and to amend the existing planning information with a revised minimum number that equates to 1,092 dwelling within the all sites already identified for residential development along the North Bank of the East Float.

Taking account of works that have been commenced, the register of planning decisions, the latest available Strategic Housing Land Availability Assessment, marketing information and the responses to public consultation on the first Brownfield Register, it is proposed that the Register is amended to:

- include the former Pool Inn Public House, Poulton Rd, Seacombe;
- include the former Birch Tree Public House, Prenton Road West;
- include 165 Bedford Rd, Rock Ferry;
- include former high rise flats adj 1 Rock Close, Rock Ferry;
- include builders merchant yard 8 Berwyn Drive, Pensby and Thingwall;
- include Woodville, Raby Rd, Clatterbridge;
- include the former Victoria Lodge Public House, 81-83 Victoria Rd, Birkenhead & Tranmere;
- include Wirral Waters Legacy Site, Dock Rd, Seacombe;
- include Wirral Waters Urban Splash 1 site, Dock Rd, Seacombe; and
- remove the Sundial, 61 Caldy Road, Caldy (under construction);
- remove land at Kenilworth Gardens, Overchurch (under construction);
- remove land at the former Millhouse public house, 79 Millhouse Lane, Moreton (under construction);
- remove land at the former Corsair public house, Bidston Village Road, Beechwood (under construction);
- remove Axholme, 76 Thurstaston Rd, Heswall (under construction);
- remove land at Mariners Park, Ismay Drive, Egremont (under construction);
- remove land rear of Whitebridge, Bromborough (under construction);
- remove the former Cole Street Primary School, Birkenhead (under construction); and
- update planning information for Acre Lane Resource Centre, 576-578 New Chester Rd, the former Dell Primary School, 15-25 Field Road, Trafalgar Service Station, 143 Highfield Road, Unused Land at Lees Avenue, 1 Mellor Road, Land adj 36 Patten Street and Wirral Waters Urban Splash 2, Belong and & North Bank 1, Dock Road.

The amended Register would now contain 83 sites with a potential minimum capacity of 2,852 dwellings.

There is no proposal to include sites in Part 2 of the Register, at this time.

## **RECOMMENDATION/S**

- 1. That sites at the Sundial (668600), Kenilworth Gardens (650800), Former Millhouse PH (656800), the former Corsair Public House (655500), Axholme, 76 Thurstaston Road (676500), Mariners Park (676200), the rear of Whitebridge (676600) and the former Cole Street Primary School (660900), be removed from Part 1 of the Brownfield Register.**

2. That sites at the former Pool Inn Public House (0967), Birch Tree Public House (3001), 165 Bedford Rd (0775), Former Car Park adj 1 Rock Close (3035), Builders Merchant 8 Berwyn Drive (0898), Woodville Raby Rd (3047), the former Victoria Lodge Public House (3048), Wirral Waters Legacy (2081) and Wirral Waters Urban Splash 1 (2082) be added to Part 1 of the Brownfield Register.
3. That sites at the former Acre Lane Resource Centre (1666), 576-578 New Chester (570700), the former Dell Primary School (587100), 15-25 Field Road (644400), Trafalgar Service Station (557000), 143 Highfield Road (654300), Unused Land at Lees Avenue (643300), 1 Mellor Road (655400), Cleared Site, and Land adj 36 Patten Street (649500), Wirral Waters (2044) and Wirral Waters (2045) be amended to identify updated planning information in Part 1 of the Brownfield Register.
4. That the Revised Register is made available for public inspection on the Council's website and at the principal office of the Local Planning Authority.

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## **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 maintaining 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 require each local planning authority to prepare, maintain and publish a statutory Brownfield Land Register to provide information on previously developed land that would be suitable, available and achievable for new housing development as defined in national regulations. Entries in the register must be reviewed at least once within each year and amended if information should be updated (Regulation 17 (1) (6) refers).

- 3.2 The definition of 'previously developed land' is currently as set out in Annex 2: Glossary of the National Planning Policy Framework (24 July 2018).
- 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).
- 3.8 There is no requirement for public consultation before entering land in Part 1 or amending entries, as the local planning authority may carry procedures (including consultation) as they fit (Regulations 5 (6) & 17(7) refers).
- 3.9 Part 2 of the Register can only 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.
- 3.10 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.
- 3.11 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.

## **4.0 FINANCIAL IMPLICATIONS**

- 4.1 The Council received new burdens grant payments of £14,645 in 2017-18 and £5,485 in 2018-19. A further grant payment is expected in 2019-20 but the amount of funding is currently under review.
- 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 Local Planning Authority 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 A fee of £402 is payable to the Council for an application for technical details consent for sites granted permission in principle through Part 2 of the Register as defined in legislation for planning fees.

## **5.0 LEGAL**

- 5.1 The entries in the Register must be reviewed at least every 12 months, in accordance with the requirements of Regulation 17. In order to meet this requirement the revised Register must be published no later than Friday 21 December 2018, 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 Sites can be included in Part 1 if suitable, available and achievable for new housing development (within the terms of Regulation 4)
- 5.4 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).
- 5.5 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).

- 5.6 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.
- 5.7 Applications for technical details consent must be determined in accordance with the permission in principle.
- 5.8 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 Local Planning Authority 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 the fee set through national regulations.
- 6.4 Previous consultation on the initial Register in October 2017 cost just under £3,000 in addition to staffing costs.

## **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 process that could lead to potential development proposals on sites which could affect the amenity and the character of their area.
- 7.3 However, inclusion of sites in Part 1 of the Brownfield Register does not grant consent for development to take place.
- 7.4 Before any land can be entered in Part 2, which would result in the grant of permission in principle for residential development, the Authority must follow statutory procedures for publicity and notification, including notification by site notice and publication on the Council's website.

## **8.0 ENGAGEMENT / CONSULTATION**

- 8.1 Representations received during consultation on the first Brownfield Register were deferred for consideration in the current review. The consultation responses

suggested that 27 additional sites should be included and that the minimum number of dwellings identified at Wirral Waters was too low.

- 8.2 The recommended response to each of the suggested sites and amendments are set out in Appendix 1 to this report. In summary it can be accepted that the former Pool Inn and the Birch Tree public house should be included in Part 1 of the Register. The other sites are either too small; or no information has been identified to confirm the land is available for development; or they are located within the Green Belt or the Primarily Industrial Area; and are not therefore currently considered suitable for inclusion.
- 8.3 In the case of Wirral Waters it should be noted the existing outline permission at East Float is for a mixed-use development that includes a significant amount of non-residential floorspace and that the outline permission for 13,521 residential units is expressed as a maximum number. As all matters are held in reserve, it has not been possible to identify a specific boundary for a minimum number of additional new housing units beyond the most current proposals.
- 8.4 The proposal in the review of the Register to revise the minimum number units to 1,092 within the sites on the North Bank is based on current applications and communications with the land owner and would not prevent a greater number of dwellings coming forward at a later date. Sites at Wirral Waters will, however, be included in a future review, when additional residential proposals emerge in further detail.
- 8.5 In terms of the proposed amendments to the current Register, there is no requirement for public consultation before entering land in Part 1 or amending entries, as the Local Planning Authority may carry procedures (including consultation) as they fit (Regulations 5 (6) & 17(7) refers).
- 8.6 The other proposed amendments to the Register take account of works that have been commenced, planning permission that has been granted, publicly available marketing information, the latest available Strategic Housing Land Availability Assessment and the responses to public consultation on the first Brownfield Register.
- 8.7 Six of the nine sites proposed for inclusion in this review are already designated as part of the Primarily Residential Area in the Unitary Development Plan and the principle of permitting residential development at the remaining sites at Woodville and Wirral Waters has already been established through planning applications. Inclusion in Part 1 does not grant consent. Therefore, public consultation is not proposed in relation the proposed amendments in this particular case.
- 8.8 Before the Local Planning Authority includes any 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 proposed amendments to Part 1 of the Brownfield Land Register are unlikely to have any significant equality implications as their inclusion would 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 need to 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 - Proposed Response to Representations on Brownfield Register 2017.  
Appendix 2 - Proposed Brownfield Register 2018, Committee Summary.  
Appendix 3 - Proposed Sites to Add, Committee Summary.  
Appendix 4 - Proposed Sites to Remove, Committee Summary.  
Appendix 5 - Proposed Sites to Amend, Committee Summary.

## **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](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>

The Definition of Previously Developed Land (NPPF, July 2018) can be viewed on page 65 at

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/740506/National Planning Policy Framework print version.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/740506/National_Planning_Policy_Framework_print_version.pdf)

The Town and Country Planning Fees as amended in 2017 can be viewed at <https://www.legislation.gov.uk/uksi/2017/1314/regulation/3/made>

**SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>
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)
Council: Statutory Register of Brownfield Land	11 December 2017 (Minute 96)