

PLANNING COMMITTEE**16 MARCH 2023**

REPORT TITLE	REVIEW OF THE STATUTORY WIRRAL BROWNFIELD LAND REGISTER
REPORT OF:	DIRECTOR OF REGENERATION AND PLACE

REPORT SUMMARY

The Town and Country Planning (Brownfield Land Register) Regulations 2017 require the Council to prepare, maintain and publish a statutory register of previously developed (brownfield) land within Wirral. This is known as the Brownfield Land Register.

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

The Council first prepared its Brownfield Land Register in 2017 and this was published in December 2017. The Council is required to review the Register annually, which has not been possible due to the focus on the preparation of the Wirral Local Plan, which has now been formally submitted to the Secretary of State. The amended Register would contain 144 sites with a potential minimum capacity of 10,917 dwellings.

There is no proposal to include sites in Part 2 of the Register and to grant permission in principle for any development on these sites.

The Wirral Plan 2021-2026 has been developed and the focus covers the following five themes:

- Safe and Pleasant Communities
- Brighter Futures
- Active and Healthy Lives
- Sustainable Environment
- Inclusive Economy

The proposal delivers against all of the above themes. Most specifically, it will contribute towards providing Safe and Pleasant Communities, Brighter Futures and a Sustainable Environment by providing for the re-development of vacant and under-used previously developed brownfield land, in accessible locations at the heart of existing communities.

RECOMMENDATIONS

Planning Committee is recommended to approve that:

- 1. The sites listed in Appendix 2 to this report are removed from Part 1 of the Council's Brownfield Land Register;**
- 2. The sites listed in Appendix 3 to this report are added to Part 1 of the Brownfield Land Register;**
- 3. The sites listed in Appendix 4 to this report are updated and continue to be included on Part 1 of the Brownfield Land Register; and**
- 4. The sites listed in Appendix 5 to this report remain unchanged and continue to be included on Part 1 of the Brownfield Land Register.**

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 The proposals within this report will enable the Council to comply with the legal and procedural requirements in the Town and Country Planning (Brownfield Land Register) Regulations 2017.
- 1.2 The Brownfield Land Register will also support the delivery of the emerging Wirral Local Plan 2021-2037, which was submitted to the Secretary of State for Levelling Up, Housing and Communities for independent Examination on 26 October 2022. The Submitted Local Plan is based on the Council's preferred strategy for meeting its development needs within existing urban areas and through the regeneration of brownfield sites and the comprehensive regeneration of Birkenhead.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 No other options have been considered given that the preparation of an up-to-date Brownfield Land Register is a legal duty under Section 151 of the Housing and Planning Act 2016 and the Town and Country Planning (Brownfield Land Register) Regulations 2017.

3.0 BACKGROUND INFORMATION

- 3.1 The Town and Country Planning (Brownfield Land Register) Regulations 2017 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.
- 3.2 The Council prepared its first Brownfield Land Register in 2017 and this was published in December 2017. There are currently 83 sites with a potential minimum capacity of 2,852 dwellings on the existing Brownfield Land Register (published on 15 November 2018), which can be viewed on the Council's website: <https://www.wirral.gov.uk/planning-and-building/brownfield-land-register>
- 3.3 The definition of 'previously developed land' is currently as set out in Annex 2: Glossary of the National Planning Policy Framework (20 July 2021).
- 3.4 'Suitable' means that the land at the entry date has been allocated in a development plan for residential development, 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).
- 3.5 '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".

- 3.6 '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.
- 3.7 Decisions must be made having regard to publicly available information and any relevant representations received.
- 3.8 The Register must be kept in 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 can support at least 5 dwellings.
- 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 of the Town and 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 Council 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.
- 3.12 Taking account of works that have been completed or commenced and the register of planning decisions at 31 March 2022, the latest available Strategic Housing Land Availability Assessment and the Wirral Local Plan 2021-2037 Submission Draft, it is proposed that the Register is amended to:
- (a) Remove 24 sites from the existing Register that have been completed since publication of the existing Register, with a total of 359 dwellings completed on these sites (see Appendix 2 to this report). This includes one site (Site Reference 721800 – Atherton Hall) which post-dates the existing 2018 Register, which was permitted in 2020 and completed in 2022 but which must be included for recording purposes;
 - (b) Remove 14 sites from the existing Register that no longer meet the criteria for inclusion on the Register (as set out in paragraphs 3.3 – 3.6 and 3.8 above), with a potential capacity of 200 dwellings (see Appendix 2 to this report);
 - (c) Include 76 new sites with planning permission at 31 March 2022, with a potential capacity of 1,878 dwellings (including 10 sites that are proposed to be allocated in the Wirral Local Plan 2021-2037 Submission Draft, with a potential capacity of 868 dwellings) (see Appendix 3 – Table A to this report);
 - (d) Include 1 new site with a decision pending on a planning application at 31 March 2022, with a potential capacity of 14 dwellings (see Appendix 3 – Table B to this report);

- (e) Include 21 new sites that are proposed to be allocated for housing development on brownfield land in the Wirral Local Plan 2021-2037 Submission Draft that did not have planning permission at 31 March 2022, with a potential capacity of 6,454 dwellings (see Appendix 3 – Table C to this report);
- (f) Update the planning information for 31 sites on the existing Register, with a potential capacity of 2,360 dwellings (including 8 sites now proposed to be allocated in the Wirral Local Plan 2021-2037 Submission Draft, with a potential capacity of 1,176 dwellings) (see Appendix 4 to this report); and
- (g) Retain 15 sites from the existing Register that are unchanged, with a potential capacity of 211 dwellings (see Appendix 5 to this report).

3.13 The amended Register would contain 144 sites with a potential minimum capacity of 10,917 dwellings (see Appendix 1 to this report). There is no proposal to include sites in Part 2 of the Register and to grant permission in principle for any development on these sites, as the allocation of sites for development has been undertaken through the preparation of an up-to-date Local Plan.

3.14 The revised Brownfield Land Register will be made available for public inspection on the Council's website and at the principal office of the Local Planning Authority. The Director of Regeneration and Place will continue to keep the Brownfield Land Register under review annually and report any significant changes to Planning Committee that would affect the potential capacity for housing development and available brownfield sites.

4.0 FINANCIAL IMPLICATIONS

4.1 The Council received new burdens grant payments in 2017-18 and 2018-19, which has been used in the preparation of the Brownfield Land Register. The new burdens grant is no longer available for the Brownfield Land Register.

4.2 No fee is payable to the Council for entering a site in either Part of the Register.

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 A fee 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 IMPLICATIONS

5.1 The requirement for the Council to have a Brownfield Register 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.

- 5.2 The Register is 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.
- 5.3 Part 2 of the Register can 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 Council, subject to the further submission and approval of technical details consent.
- 5.4 The entries in the Register should be reviewed at least every 12 months. The entries on the Register were not reviewed in 2019, 2020 or 2021 as the Council's priority was to progress the Wirral Local Plan to meet the Government's deadlines on the delivery of the Local Plan.
- 5.5 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.
- 5.6 Sites can be included in Part 1 if suitable, available, and achievable for new housing development.
- 5.7 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.
- 5.8 Sites where development is likely to have a significant environmental impact or a significant effect on a qualifying European nature conservation site must not be included
- 5.9 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.
- 5.10 Applications for technical details consent must be determined in accordance with the permission in principle.
- 5.11 Proposals outside the range of development specified in Part 2 of the Register will require a planning application to be submitted and determined in the normal way.
- 5.12 The format requirements for the Brownfield Land Register are set out in the Government's Brownfield Land Registers Data Standard published on 31 October 2019. The 2022 update of the Wirral Brownfield Land Register has followed the requirements set out in the data standard.
- 5.13 Section 14A of the Planning and Compulsory Purchase Act 2014 requires that in exercising its functions under the Brownfield Land Register the local planning authority must have regard to the Development Plan, national policies and advice and any guidance issued by the Secretary of State for the purposes of the Regulations.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

- 6.1 The preparation, maintenance and review of the Brownfield Land Register has been undertaken by existing staff resources within Forward Planning and IT, supported by a specialist planning consultant.

6.2 Entering a site in Part 2 of the Brownfield Land Register would require the Local Planning Authority to undertake additional work up-front that would previously have been done by landowners and their agents as part of a planning application.

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

7.0 RELEVANT RISKS

7.1 Inclusion of sites in Part 1 of the Register does not grant consent for development to take place. Therefore, there is a risk that development will still not be delivered, particularly on challenging sites.

7.2 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.

7.3 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.

7.4 All of the sites proposed for inclusion on the Register in this review are either already subject to planning permission, currently the subject of a planning application or are proposed to be allocated for residential development in the Wirral Local Plan 2021-2037 Submission Draft. This means they have already been subject to public consultation. It is considered that this reduces the risk of the public not being aware that there are or could be development proposals on sites which could affect the amenity and the character of their area.

8.0 ENGAGEMENT/CONSULTATION

8.1 There is no requirement for public consultation before entering or removing land or amending entries in Part 1 of the Register, as the Council may carry out procedures (including consultation) as they think fit.

8.2 The proposed amendments to the Register take account of works that have been completed or commenced, the register of planning decisions, the latest available Strategic Housing Land Availability Assessment and the (now submitted) Wirral Local Plan 2021-2037 Submission Draft.

8.3 As all of the sites proposed for inclusion on the Register in this review have already been subject to public consultation and inclusion in Part 1 of the Register does not grant consent, public consultation is not proposed in relation to the proposed amendments in this particular case.

8.4 Before the Council includes any land in Part 2 of the Brownfield Land Register, they must follow statutory procedures for publicity and notification 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. There is no proposal to include sites in Part 2 of the Register at this time.
- 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>

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

- 10.1 The beneficial re-use of vacant and underused brownfield land can have positive implications for the local environment.
- 10.2 The re-use of brownfield sites in accessible and sustainable locations, instead of using previously undeveloped green field sites, can also have a more positive impact on climate change, especially where new homes are built to modern standards of design and construction.

11.0 COMMUNITY WEALTH IMPLICATIONS

- 11.1 The development of brownfield sites in accessible locations at the heart of existing local communities can support local job and training opportunities and provide support for new and existing local services.

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APPENDICES

- Appendix 1 - Proposed Brownfield Register 2022, Committee Summary.
Appendix 2 - Proposed Sites to Remove, Committee Summary.
Appendix 3 - Proposed Sites to Add, Committee Summary.
Appendix 4 - Proposed Sites to Amend, Committee Summary.
Appendix 5 - Proposed Sites to Retain, Committee Summary.
Appendix 6 – Proposed Brownfield Register 2022, Site Plans.

BACKGROUND PAPERS

Housing and Planning Act 2016 (Sections 150 and 151) can be viewed at <http://www.legislation.gov.uk/ukpga/2016/22/section/150/enacted>
<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 Standard (October 2019) can be viewed at <https://www.gov.uk/government/publications/brownfield-land-registers-data-standard/publish-your-brownfield-land-data>

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 2021, page 70) can be viewed at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1005759/NPPF_July_2021.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)

Council Meeting	Date
Council: Statutory Register of Brownfield Land	11 December 2017 (Minute 96)
Planning Committee: Statutory Register of Brownfield Land	15 November 2018 (Minute 92)