

	Planning Committee 14th December 2017
Title	Brownfield Land Register
Report of	Deputy Chief Executive
Wards	All
Status	Public
Urgent	Yes
Key	Yes
Enclosures	Appendix A – Brownfield Land Register Extract
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Summary

Under the Housing and Planning Act 2016 a new requirement for local planning authorities to produce a register of previously developed (brownfield) land was introduced. The Town and Country Planning (Brownfield Land Register) Regulations 2017 requires the first Register to be published by 31st December 2017. Once published, the Regulations stipulate that local planning authorities review their registers at least once a year.

In compiling the Register it is necessary to have regard to primary planning legislation, development plan, national policy advice and guidance. Brownfield sites that meet the relevant criteria set out in the Regulations must be entered in Part 1 of the Brownfield Land Register. Sites entered in Part 2 of the Register are granted 'Permission in Principle'.

The Council has prepared an initial Brownfield Land Register detailing sites considered suitable for housing led development based on the criteria set out in the Regulations. These criteria are that sites should be at least 0.25 hectares or capable of supporting at least 5 dwellings and that they are suitable, available and achievable. Detailed guidance on brownfield land registers is set out in the relevant section of the Government's National Planning Practice Guidance.

It is recommended that the Council's initial Brownfield Land Register only includes sites within Part 1 with either an extant unimplemented planning permission for residential use or Local Plan residential site allocation. There are no entries included in Part 2 as to date no sites have been granted Permission in Principle.

Recommendation

That Planning Committee approves the initial Brownfield Land Register (BLR) for publication.

1. WHY THIS REPORT IS NEEDED

Background

i) Publishing a Brownfield Land Register (BLR)

- 1.1 The Town and Country Planning (Brownfield Land Register) Regulations 2017 introduced a new requirement on local planning authorities to prepare, maintain and publish registers of previously developed¹ (brownfield) land by 31 December 2017. Consideration of this matter is therefore considered urgent in order to comply with the Regulations. Regulation 17 requires local planning authorities to review their registers at least once a year.
- 1.2 Part 1 of a Brownfield Land Register ("BLR") can include sites with extant full planning permission, outline planning permission and also sites without planning permission deemed suitable for residential development. Although not mandatory to include, any sites entered in Part 2 of the Register comprise a subset of those in Part 1 and that, by virtue of their inclusion, are granted 'Permission in Principle' for residential development. No sites in Barnet have been granted Permission in Principle and consequently, for the initial Brownfield Land Register, there are no entries included in Part 2.

ii) Methodology for inclusion of sites in the BLR

- 1.3 The Council is required to include sites on the Register that it considers meet the criteria in the Regulations². Sites should be at least 0.25 hectares in size or capable of supporting at least 5 dwellings and suitable, available and achievable for residential development.
- 1.4 Having regard to these criteria the following methodology has been used in selecting the sites entered into Part 1 of the Register –

¹ As defined in annex 2 of the NPPF

² These criteria are set out in Regulation 4 of [The Town and Country Planning \(Brownfield Land Register\) Regulations 2017](#)

- i) As a starting point sites with planning permission or prior approval taken from the London Development Database (LDD) in July 2017 that have not yet been completed and meet the above criteria have been included. All sites with extant planning permissions or prior approval are by definition considered to be suitable, available and achievable.
- ii) Undeveloped residential site proposals in the adopted Local Plan, (Mill Hill East and Colindale Area Action Plans) have been reviewed and where meeting the BLR criteria included. Some of these sites have planning permission and are included above.

All of these sites are considered suitable, available and achievable.

- 1.5 The Regulations require that the Council includes a note in the BLR indicating if the site is deliverable³. This column, along with others included in the proposed brownfield land register, are in the prescribed format set out in the Brownfield Land Register Data Standard published by DCLG. For sites of 0.25 ha or more the best available information is used to ascertain if they are 'deliverable'. The Council will continue to gather intelligence on these sites when updating the BLR.
- 1.6 Smaller sites of less than 0.25 ha sites where planning permission has been granted for 5 or more residential units have also been included in the Register based on the assumption that they are likely to be completed within the next five years. Details of the Part 1 sites listed in the Brownfield Land Register are attached at Appendix A.

iii) Relationship between the BLR and the Local Development Plan

- 1.7 In August this year the Council undertook a Call for Sites exercise to inform site selection for the new Local Plan, a draft (Regulation 18) of which is programmed to be published for public consultation in Autumn 2018. The majority of sites promoted through this exercise are residential led proposals on previously developed land, and therefore eligible for inclusion within Barnet's BLR. However, the Government's detailed guidance on the preparation and publication of a Register was not issued until Summer 2017 and it has not been possible to properly assess these sites and reach a view on the appropriateness of their inclusion in Part 1 of the initial BLR.
- 1.8 Given the timing of the Council's new Local Plan and associated work being undertaken to inform production of a consultation draft, it is considered premature at this stage to use the BLR to promote new sites that are suitable for residential development. To do so could give a legitimate expectation that they will also be included as site proposals in the draft Local Plan, and thereby potentially prejudice the consideration and production of that draft document. Site selection for inclusion in the Local Plan requires that a thorough, consistent, transparent and robust assessment process is undertaken of all known potential sites. This is neither possible nor, for the

³ deliverable" as defined in paragraph 5 of Schedule 2 of the 2017 Regulations means that there is a reasonable prospect that residential development will take place on the land within 5 years beginning with the entry date.

reasons explained above, considered desirable to undertake before the end of December 2017.

iv) Composition of sites included in Part 1 of the BLR

- 1.9 Therefore, based on the above methodology and reasoning, Part 1 of the initial BLR contains 108 sites, all of which have been in the public domain for some time. The majority of these sites already have planning permission and a number are under construction but, at the time of writing this report, had not been completed. The largest proportion of this capacity is from Brent Cross, Colindale and Mill Hill East regeneration areas.

2 REASONS FOR RECOMMENDATIONS

- 2.1 For the reasons as set out in paragraphs 1.3 to 1.8 above, it is recommended that entries included in Part 1 of the initial BLR are limited to those sites with an existing Local Plan allocation and/or extant residential led planning permission. However, the Council is expected to review the BLR on a regular basis (minimum of once a year). Although not required to consult on Part 1 entries, given the relationship between, and the implications of, identifying sites in the BLR and the Local Plan, it would seem prudent to consult on revisions to the BLR at the same time as consulting on the draft Local Plan. Following consultation this would then enable production of an updated BLR to be published by the end of December 2018, ensuring that entries in Part 1 are consistent with, and informed by, the wider consultation undertaken on the Regulation 18 draft Local Plan.

3 ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 Not to approve publication of the Brownfield Land Register. Failure to publish an initial BLR by 31st December 2017 would be in breach of the Government Regulations⁴ which stipulate that “each local planning authority must publish their register by 31st December 2017.”
- 3.2 To publish the BLR subject to amendments. It is strongly advised not to add additional sites onto the initial BLR for the reasons explained above; in particular because of the relationship with Local Plan proposals and the robust site selection process that this necessitates. Also, given the December 31st deadline to publish the BLR, officers and members would have difficulty considering revisions to the BLR.

4 POST DECISION IMPLEMENTATION

- 4.1 Going forward, the Government’s expectation is that once published the BLR is reviewed, as a minimum on an annual basis. Once the initial BLR has been published it is likely that applications will be received for Permission in Principle (PiP). Following undertaking of the requisite notification and consultation requirements as set out in the BLR Regulations, in order to give

⁴ The Town and Country planning (Brownfield Land Register) regulations 2017 - Regulation 3(2) refers

effect to PiP the Council will need to add sites deemed suitable to Part 2 of the BLR. Whilst this process will be demand led, it is nevertheless likely that, in addition to a formal annual review of the BLR, the Register will also need to be amended as necessary during the year to add Part 2 PiPs.

5 IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

5.1.1 The Brownfield Register helps to support delivery of the Corporate Plan 2015-2020, particularly the following stated corporate priority:

- Promote responsible growth within the Borough, encouraging development and success, revitalising communities whilst protecting what residents love about the Borough

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

5.2.1 The cost for producing the initial Brownfield Register is being met through an annual 'new burdens grant' from DCLG.

5.3 Social Value

5.3.1 The Public Services (Social Value) Act 2012 requires people who commission public services to consider how they can also secure wider social, economic and environmental benefits.

5.3.2 Through the use of the Brownfield Register social and economic benefits will principally be secured through opportunities to increase housing delivery (including affordable housing) and make more efficient use of previously developed land. Focusing housing development on brownfield rather than greenfield sites will help to protect Barnet's Green Belt and Metropolitan Open Land. New homes will be energy efficient and designed in accordance with Council guidance on Sustainable Design and Construction.

5.4 Legal and Constitutional References

5.4.1 The requirement for all local planning authorities to publish a Brownfield Land Register by 31st December 2017 is stipulated in The Town and Country Planning (Brownfield Land Register) Regulations 2017.⁵ Details on publication of the Register are set out in Section 1 of this report.

5.4.2 Under Article 7 of the Constitution the functions of the Planning Committee include: To consider additions, deletions or amendments to the entries in the Council's Brownfield Land Register, including any referrals from the Area Planning Committees, and conduct any other functions related to the Brownfield Land Register.

⁵ Regulation 3(2) refers

5.5 Risk Management

- 5.5.1 Limiting site entries in the initial Register to those with an extant planning permission for residential use is considered to pose the least risk of subsequent challenge. The Government's expectation is clear that once published registers should be regularly updated (at least annually); this will enable the Council to add sites to Part 1 deemed suitable for residential development once a thorough assessment on suitability has been undertaken.
- 5.5.2 As explained above, including sites from the BLR without extant planning permission could be seen as prejudicial to the consideration of residential site allocations included in the new Local Plan, and potentially result in a legal challenge. It is important therefore that the identification of sites in both the BLR and Local Plan is arrived at through a consistent and transparent process and following a robust assessment.
- 5.5.3 To date the Council has not received any requests to grant Permission in Principle. Any requests received must be subject to notification and consultation procedures prescribed in The Town and Country Planning (Permission in Principle) Order 2017 and Regulations prior to consideration being given to entering in Part 2 of the Brownfield Land Register.

5.6 Equalities and Diversity

- 5.6.1 The 2010 Equality Act outlines the provisions of the Public Sector Equalities Duty which requires Public Bodies to have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010
 - advance equality of opportunity between people from different groups
 - foster good relations between people from different groups.

The broad purpose of this duty is to integrate considerations of equality into day business and keep them under review in decision making, the design of policies and the delivery of services.

- 5.6.2 The Brownfield Land Register has implications for all wards in Barnet. The sites on the BLR are determined by regulatory criteria. Part 1 of the BLR has no statutory weight in either decision taking or plan making and there are no sites on Part 2 of the BLR (which grants PiP). Accordingly, it is the opinion of the local planning authority that there are no specific equality and diversity implications arising from production of this Register.

5.7 Consultation and Engagement

- 5.7.1 There is no requirement to consult on Part 1 of the Register in terms of compiling and publishing the initial BLR by 31st December 2017. However, given that Barnet is producing a new local plan, it is recommended that when the BLR is first reviewed in 2018 a period of consultation is undertaken on any proposed revisions in conjunction with consultation for the draft Local Plan.

6 BACKGROUND PAPERS

- The Town and Country Planning (Brownfield Land Register) Regulations 2017⁶
<http://www.legislation.gov.uk/uksi/2017/403/contents/made>
- The Town and Country Planning (Permission in Principle) Order 2017⁷
<http://www.legislation.gov.uk/uksi/2017/402/made/data.pdf>
- Planning Practice Guidance Brownfield land registers published 28th July 2017 <https://www.gov.uk/guidance/brownfield-land-registers>
- Planning Practice Guidance Permission in principle published 28th July 2017 <https://www.gov.uk/guidance/permission-in-principle>
- Brownfield Land Registers Data Standard: preparing and publishing a register – July 2017
<https://www.gov.uk/government/publications/brownfield-land-registers-data-standard>

⁶ Regulations require local planning authorities to prepare, maintain and publish registers of brownfield land suitable for residential development

⁷ Order enables local authorities to grant permission in principle on suitable sites in their registers