

For publication

Chesterfield Brownfield Land Register – Notification of publication and recommendation not to include Part 2 (EG380L)

Meeting:	Cabinet
Date:	30th January 2017
Cabinet portfolio:	Cabinet Member for Economic Growth
Report by:	Strategic Planning and Key Sites Manager

For publication

1.0 Purpose of report

1.1 To advise on the introduction of the Brownfield Land Register Regulations in April 2017 and the Local Planning Authority's (LPA) approach to the preparation and publication of the register. Also to confirm that the statutory duty to have the Register in place by 31st December 2017 has been met (see Appendix 1).

2.0 Recommendations

2.1 That Cabinet notes the publication of the Register in accordance with the Town and County Planning (Brownfield Land Registers) Regulations 2017.

2.2 That the Borough Council does not include any sites on Part Two of its Brownfield Land Register at this time.

3.0 Background

- 3.1 The Town and County Planning (Brownfield Land Registers) Regulations 2017 came into effect in April 2017, with detailed guidance published on 28 July 2017. The Regulations set out a statutory duty for each Local Planning authority to prepare and publish a Register of Previously Developed Land¹ (Brownfield Land) by 31st December 2017, and maintain it annually thereafter.
- 3.2 The government intends that the Brownfield Land Register be a publicly available and up to date source of all Brownfield Sites that are “achievable”, “available” and “suitable” for housing. Detailed definitions and eligibility requirements are provided in the statutory guidance (see background papers). It is intended that the register will aid the delivery of housing in appropriate locations by enhancing the accessibility of previously developed sites to housebuilders. Sites do not need planning permission to be eligible for inclusion on the Brownfield Land Register.
- 3.3 The legislation requires that the Register is split into two parts. Part 1 is mandatory and details the core information on sites eligible for inclusion on the Register. Including sites in Part 2 is at the discretion of the Local Planning Authority and grants sites “Permission in Principle” (see paragraph 3.9). Part 1 is a comprehensive list of all brownfield sites of more than 0.25 hectares, which have the capacity to accommodate residential development of 5 or more dwellings in addition to meeting the requirements highlighted in Section 3.2. Smaller sites may be included but the LPA has not done so on this occasion owing to the large number of small sites with extant permission.
- 3.4 The register should include all sites meeting the eligibility requirements that have extant planning permission and all those with Local Plan housing allocations. Sites which meet the criteria may also be pulled from the Land Availability Assessment (LAA)

¹ The NPPF describes previously developed land as:

Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.

work which is being undertaken as part of the New Local Plan housing allocations process following a Call for Sites in 2016.

Approach and Implementation

- 3.5 The Brownfield Land Register guidance recommends that sites which have a greenfield element in addition to brownfield land should be split according to their respective land cover. Where the previously developed portion is still suitable for inclusion (based on its size and the number of dwellings it can hold) the site has been split and only the brownfield portion has been included on the Register.
- 3.6 The council published the Register on the 19th of December 2017 in .csv format with associated mapping as is required by the Regulation 17. A total of 40 sites have been input on the Register under Part 1 with no sites put forward for Part 2 at present (see 3.9, below). 21 of the sites already have planning permission. One is currently pending consideration and 2 are already allocated under the adopted Core Strategy. The remaining 16 are deemed to be suitable in accordance with the Brownfield Land Register regulations and the LAA methodology for ascertaining site suitability. The sites presented in Part 1 of the Register are set out in Appendix 1.
- 3.7 There are no requirements in the regulations for the council to carry out consultation on including sites within Part 1 or the register. Including a site on Part 1 of the register does not prejudice any decision that the council may later make on whether or not to grant planning permission for development of the site, or whether to include it as an allocation in a Local Plan.
- 3.8 The Brownfield Land Register must be reviewed at least annually and any sites that no longer meet the criteria detailed in paragraph 3.2 should be removed. It is intended that the authority integrate the updating of the register with the annual housing completions monitoring which usually takes place in May.

Part Two of the Register

- 3.9 The Regulations prescribe that, if appropriate, local planning authorities can include sites on a Part 2 of the Register. Part 2

sites are those which local planning authorities have deemed suitable for the grant of 'Permission in Principle' (PiP) – in effect where the local planning authority has resolved to grant planning permission for residential development on the site.

- 3.10 For any site that is included on Part 2 of the Brownfield Land Register the local authority must set out:
- The minimum and maximum number of dwellings the authority believes the site is capable of supporting.
 - Any further site information and details of hazardous substances where relevant.
- 3.11 Technical Details Consent (TDC) would be required for any sites that are granted PiP to proceed. This involves the consideration of detailed design matters and any mitigation measures. TDC can be refused should the details provided not be in line with the Core Strategy and National Planning Policy Framework.
- 3.12 The costs of placing sites on Part 2 of the Brownfield Land Register are difficult to estimate as it would depend on the number and size of sites and level of work required (which would vary from site to site). However the Government's own impact assessment² indicates the typical cost of preparing and submitting a planning application is £67,000 for major applications and £22,000 for minor applications. These costs would fall to the Local Planning Authority and would be born in addition to foregoing the planning fee income that would otherwise be received for dealing with a 'normal' application.
- 3.13 Most of the sites on the register have either a permission or allocation at present and the outcome of the new Local Plan will determine the allocation status for the remainder of sites.
- 3.14 Given the extensive assessment requirements and consultation process required to grant sites PiP it is recommended that the Council does not undertake Part 2 at this iteration of the Brownfield Register.

4.0 **Human resources/people management implications**

² <http://www.parliament.uk/documents/impact-assessments/IA16-002H.pdf>

4.1 To date the Brownfield Land Register has required a significant amount of officer time in identifying potential sites and in considering their suitability, although there has been some overlap with ongoing site assessment being undertaken in preparing the new Local Plan. Mapping and compiling the register as per government specification has also taken considerable effort. These resources have come from existing officer time, at the cost of time spent on Local Plan preparation.

5.0 **Financial implications**

5.1 The council has received £14,645 in New Burdens Funding for 2016/17 to cover the costs of setting up the Brownfield Land Register (which is not currently ring-fenced to the Planning Department). Local planning authorities will receive further grant payments for 2017/18, 2018/19 and 2019/20; the amount of funding from 2016/17 onwards will be kept under review but has not yet been confirmed.

5.2 It is anticipated that the cost of placing sites on Part 2 of the Brownfield Land Register would be substantial given the technical advice and supporting papers required for granting PiP. As Part 2 is not a statutory obligation, and the majority of sites already have planning permission or a Local Plan allocation, the report recommends that no sites are included in Part 2 and the financial risk is currently considered to be low.

6.0 **Legal and data protection implications**

6.1 The Brownfield Register has been prepared in accordance with regulation 4 of the Town and Country Planning (Brownfield Land Register) Regulations 2017 and the associated guidance set out in the National Planning Policy Framework and National Planning Policy Guidance.

6.2 Data provided under the Public Sector Mapping Agreement has been used in the production of the register and the associated maps. The publication of the register meets the 'Presumption to Publish' criteria which permits publishing under the Open Government Licence.

6.3 No ownership details are stored on the Brownfield Land Register so there are no associated Data Protection concerns.

7.0 Consultation

7.1 The council is not required to consult on sites included within Part 1 of the Brownfield Land Register. Should any sites be added to Part 2, the authority will need to follow the publicity, notification and consultation requirements set out in the Brownfield Land Registers statutory guidance (see Background Documents).

8.0 Risk management

Description of the Risk	Impact	Likelihood	Mitigating Action	Impact	Likelihood
Sites are put forward for PiP	High	Low	No sites recommended for inclusion in part 2 of the register	Med	Low
Site details are inaccurate	Low	Low	The sites have been extensively reviewed by officers and data recorded in accordance with the published regulations and guidance	Low	Low
Challenges from landowners re inclusion or exclusion of sites	Med	Low	The register is subject to at least annual review	Low	Low

9.0 Equalities Impact Assessment (EIA)

9.1 An EIA is not required when publishing the Brownfield Land Register as it is a statutory requirement.

10.0 Alternative options and reasons for rejection

10.1 As the Brownfield Land Register is a statutory requirement Part 1 of the register has been published in accordance with legislation.

10.2 In addition to Part 1, Part 2 of the register could be populated (and therefore PiP granted to a number of sites) at a significant cost to Chesterfield Borough Council (see, 3.12, above).

10.3 As this cost would usually be taken on by a developer it does not seem prudent to take on this financial burden given its status as optional within the Brownfield Land Register regulations.

11.0 Recommendations

11.1 That Cabinet notes the publication of the Register in accordance with the Town and County Planning (Brownfield Land Registers) Regulations 2017.

11.2 That the Borough Council does not include any sites on Part Two of its Brownfield Land Register at this time.

12.0 Reasons for recommendations

12.1 As required by the stated regulations.

12.2 To minimise the unnecessary expense to the Council created through the process of analysing, publicising and consulting on sites for PiP. This cost would usually be taken on by a developer when applying for outline or full planning permission.

Glossary of Terms	
<i>NPPF</i>	<i>National Planning Policy Framework</i>
PiP	Permission in Principle
LAA	Land Availability Assessment
TDC	Technical Details Consent

Decision information

Key decision number	793
Wards affected	All
Links to Council Plan priorities	A clean, green and attractive Borough, where our open spaces and built heritage are valued.

	<p>A place where everyone has fair access to a decent and affordable home.</p> <p>An inclusive Borough, where everyone feels valued and has equal and fair access to local services.</p>
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Document information

Report author	Contact number/email
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Background documents	
<ul style="list-style-type: none"> • Brownfield Land registers statutory guidance (28th July 2017): https://www.gov.uk/guidance/brownfield-land-registers • Brownfield Land Registers Data Standard: Preparing and publishing a register (28th July 2017): https://www.gov.uk/government/publications/brownfield-landregisters-data-standard • National Planning Policy Framework Annex 2 (27th March 2012): https://www.gov.uk/guidance/national-planning-policy-framework/annex-2-glossary • Permission in principle for development plans and brownfield registers Impact Assessment: http://www.parliament.uk/documents/impact-assessments/IA16-002H.pdf 	
Appendices to the report	
Appendix A	Brownfield Land Register (December 2017)