

AGENDA ITEM

FOR PUBLICATION

PERMISSIONS IN PRINCIPLE “A NEW PLANNING CONSENT ROUTE” – INTRODUCTION OF NEW LEGISLATION

MEETING: PLANNING COMMITTEE –
3RD APRIL 2018

STANDARDS AND AUDIT COMMITTEE –
4TH APRIL 2018

REPORT BY: DEVELOPMENT MANAGEMENT &
CONSERVATION MANAGER

WARD: ALL WARDS

1.0 **Purpose of Report**

To inform members of the new PIP regime and to seek officer delegations.

2.0 **Background**

2.1 The current process for obtaining permission to develop land is to apply for outline planning permission followed by a reserved matters application or a developer can apply directly for a full permission without going via the outline / reserved matters route.

2.2 The government is introducing a change in its approach as part of its planning reforms to assist in delivery of housing across the UK and following consultation, published the Housing and Planning Act 2016 (Permission in Principle etc.) (Miscellaneous Amendments) (England) Regulations 2017.

2.3 The government has indicated the following key drivers as follows:

- Increasing housing supply;
- The best use of brownfield land;
- To encourage new entrants to the development market;
- To reduce planning risk;
- To improve planning efficiency.

2.4 On the back of the 2016 Regulations three processes were established to promote the establishment of “Permissions in Principle”:

1. via statutory Brownfield Land Register
2. by site allocation in development plan
3. by application

Brownfield Land Register

2.5 From April 2017 the Regulations required local authorities to prepare and maintain registers of brownfield land that is suitable for residential development. The Register was required to have been compiled by 31st December 2017 and which provide up-to-date, publicly available information on brownfield land that is suitable for housing across the UK. This is intended to improve the quality and consistency of data held by local planning authorities which will provide certainty for developers and communities and encourage investment in local areas.

2.6 Local planning authorities are required to have a register covering the area of their local plan. Chesterfield Borough Council produced its Brownfield Land Register on 17th December 2017 and which is available on the Council [website](#). This lists 40 sites which were identifying via the process specified in the Regulations. There is a duty on local planning authorities to have regard to the development plan, national policy and advice and guidance when exercising their functions under the brownfield register regulations.

2.7 Part 1 of the brownfield register should be a comprehensive list of all brownfield sites in a local authority area that are suitable for housing, irrespective of their planning status. However, under the Regulations, Brownfield Lane Registers will also be a vehicle for granting Permission in Principle for suitable sites where authorities have followed the relevant procedures including a process of publicity and consultation. If the authority considers that Permission in Principle should be granted for a particular site, then the local authority is required to enter that site into Part 2 of their Brownfield Land Register and include a range of dwelling numbers which are considered to be appropriate. Part 2 is a subset of Part 1 and will include only those sites for which Permission in Principle has been granted.

2.8 In considering sites to be included on part 2 local authorities will need to meet the requirements in relation to environmental impact assessments, habitats protection and protections for other sensitive areas. A site may not be included on Part 2 of the register where development of the site would:

- fall within schedule 1 of the Environmental Impact Assessment Regulations
- has been screened as Environmental Impact Assessment development
- or development would be prohibited under habitats protection legislation ie those sites may not be granted permission in principle through being placed on the register.

2.9 Where a site on a register is considered to be deliverable within 5 years it can be counted towards the 5-year housing supply. Local planning authorities are required to indicate whether sites are 'deliverable' when entering data on their registers. Local authorities are also required to update the information relating to each entry and review the sites on their registers at least once a year. Authorities are encouraged to conduct more frequent updates of the register where they wish to do so. This will ensure the process is proportionate and allow local authorities to respond to particular local circumstances.

- 2.10 When a site has a Permission in Principle a developer would then be required to apply for Technical Details Consent to allow a full detailed assessment of the scheme to be made. Only after a Technical Details Consent is granted is the development capable of being carried out

Site Allocation

- 2.11 A comparative process of Permission in Principle and Technical Details Consent on Brownfield Land Registers also applies to sites which are allocated within a Local Plan.
- 2.12 Both the Brownfield Land Register and Site Allocation routes to Permissions in Principle involve the local planning authority in taking a lead role and is seen as a more proactive route to establishing the principle of a development earlier in the process and thereby de-risking the process from a developers perspective.

By Application

- 2.13 As from 1st June 2018 developers can apply for a Permission in Principle by application on any site. This relates only to minor housing proposals of between 1 and 9 units and the developer must indicate a range of units to be considered on the site. The only information required is a site map showing the site extent, a completed form and a fee based on £402 per 1000m² site area or part thereof. There is no requirement for any other information and whereas the developer can provide additional information this cannot be sought by the local planning authority.
- 2.14 There is a requirement to carry out publicity and consultation giving 14 days on a site notice and an on line notice and a decision is required to be given within 5 weeks of submission. There is scope to seek permission from a developer to extend the time however this is at the discretion of the developer.

- 2.15 The decision notice cannot include any conditions and is valid for a 3 year period. Informatives and notes concerning expectations can be added however they are not binding. There is a right of appeal against none determination and refusal.
- 2.16 Subsequent Technical Details Consent can only be made for a scheme which accords with the range of housing set out in the Permission in Principle and it is not possible to revisit the principle of housing or the number of units as part of the TDC assessment. Consultations undertaken on Permissions in Principle include statutory consultees. Unless they had indicated a need for specific subsequent re-consultation in their response then there is no further requirement to consult with them on the TDC.
- 2.17 For TDCs there is a fee equivalent to a Reserved Matters submission and a decision is required within 5 weeks of submission. Conditions can be attached to a decision and there is also a right of appeal. Like Permissions in Principle there is scope to seek permission from a developer to extend the time however this is at the discretion of the developer.
- 2.18 There are exclusions which prevent PiP and TDC submissions where Environmental Impact Assessment or Habitat Assessment is required and all decisions taken must be in line with the Development Plan and the National Planning Policy Framework (NPPF).

3.0 **Discussion**

- 3.1 The Council has an agreed Brownfield Land Register however there are no plans to proactively promote granting Permissions in Principle for any of the sites.
- 3.2 It is expected that developers will take advantage of this new process which establishes the principle of a residential use and the number of units on a site without the need for any detail, with a lower planning fee and a decision required in a shorter timescale at both PiP and TDC stages.

- 3.3 The current planning application process asks developers to provide substantial amounts of information up-front, even as part of an application for outline planning permission. This means that developers will often have to expend significant time and cost prior to achieving certainty that any development will be able to go ahead in principle. Permission in principle offers an alternative route for providing early certainty on the in-principle matters, the use, location and amount of development. Developers are still able to use the existing outline and reserved matters route to gaining permission.
- 3.4 Permission in Principle and Technical Details Consent applications will be capable of being submitted from 1st June 2018. The main issue for consideration is how they are determined in line with the Councils delegation scheme.
- 3.5 The PiP and TDC processes only permits a 5 week period from submission to decision and the process requires publicity and consultations to be undertaken. Applications must be determined in accordance with the development plan and NPPF and should not therefore be necessarily controversial at PiP stage. Officers are however concerned that a 5 week processing period will be insufficient to allow proper consideration of TDC and that for both PiP and TDC there would not be time to produce reports, with the necessary lead in time, to allow planning committee consideration all within the regular 3 week committee cycle. It is considered necessary therefore for such decisions to be taken at officer level.
- 3.6 It is accepted that this establishes a difference to the delegation of decisions under the existing outline and reserved matters route (where committee consideration is required when any outstanding objection is received) however the process is different and is required in a much shorter timescale.

4.0 **Recommendations**

- 4.1 That the delegation scheme be amended to permit the Development Management & Conservation Manager or the Principal Planner in the absence of the Development Management & Conservation Manager to decide Permissions in Principle and Technical Detail Consents.

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