

Strategic Planning, Sustainability & Transportation Committee

11 July 2017

Is the final decision on the recommendations in this report to be made at this meeting?

Yes

Brownfield Land Register Update

Final Decision-Maker	Strategic Planning, Sustainability and Transport Committee
Lead Head of Service	Rob Jarman, Head of Planning and Development
Lead Officer and Report Author	Stuart Watson, Planning Officer, Spatial Policy
Classification	Public
Wards affected	All

This report makes the following recommendations to this Committee:

That the Committee notes the statutory requirement for the Council to prepare and compile a Brownfield Land Register by 31 December 2017 and the steps being taken as set out in the report to ensure this deadline is met.

This report relates to the following corporate priorities:

- Keeping Maidstone Borough an attractive place for all –
Development of a brownfield land register should help delivery of new homes on brownfield land.
- Securing a successful economy for Maidstone Borough –
Development of a brownfield land register should help delivery of new homes on brownfield land.

Timetable

Meeting	Date
Strategic Planning, Sustainability and Transportation Committee	11 July 2017

Brownfield Land Register Update

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 This report provides Councillors with an update on the issues, implications and timetable for the Council producing a Brownfield Land Register.
 - 1.2 Councillors are asked to note the Brownfield Land Register update.
-

2. INTRODUCTION AND BACKGROUND

2.1 Local planning authorities are required to have a Brownfield Land Register (BLR) covering the area of its local plan. This requirement is set out in the Town and Country Planning (Brownfield Land Register) Regulations 2017 and the Town and Country Planning (Permission in Principle) Order 2017 requiring Local Authorities to prepare and maintain registers of brownfield land that is suitable for residential development. BLR's were first piloted in 2016 by 73 local authorities and the outcomes from these pilots have helped inform the registers' operation.

2.2 Annex 2 of the National Planning Policy Framework defines brownfield 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 have blended into the landscape in the process of time.*

- 2.3 In June 2014 the Government made an announcement that they expected to see local development orders (LDO) being used to get permissions in place on over 90% of suitable brownfield land by 2020. The Government in June 2014 stated a commitment to implementing a package of measures to support authorities in delivering this goal.
- 2.4 LDO's provide planning permission for specific classes of development within a defined area, subject to certain conditions and limitations. LDO's aim to simplify the planning process, reduce costs and potential delays that can be associated with the planning application process.
- 2.5 The requirement to produce a BLR came into force in April 2017 and requires Local Authorities to have compiled a BLR by 31 December 2017.

The purpose of a BLR is to encourage development by providing consistent up-to-date, publicly available information on brownfield land that is suitable for housing development irrespective of its planning status.

2.6 The Department of Communities and Local Government (DCLG) has stated that it intends to publish guidance on the preparation of BLR by the Summer 2017. The guidance will aim to set out the expectations for the operation of a BLR and the requirements of the secondary legislation. Grant funding of £14,645 has been received from the DCLG to help with the burdens of and statutory obligation to produce a BLR and has been added to the Spatial Policy budget for 2017/18.

2.7 Local Authorities are required to include a consistent set of information in their BLR's. The information to be held on a BLR is set out within schedule 2 of the Town and Country Planning (Brownfield Land Register) Regulation 2017 and includes:

- the Local Authority reference for the land;
- the name and address of the land;
- a plan identifying the land;
- location co-ordinates to identify a point on the land expressed as an east/west and north/south component;
- the location co-ordinate reference system;
- the name of the Local Authority;
- the uniform resource identifier "URI" of the Local Authority followed by the relevant type of authority and name of the local authority;
- the ownership status of the land;
- where the land is "deliverable" a note to that effect;
- the planning status of the land;
- where the planning status is "permissioned", the date that such permission was granted or deemed to have been granted and the type of permission granted;
- description of any proposed housing development or the minimum and maximum net number of dwellings, given as a range, which, in the authority's opinion, the land is capable of supporting;
- where the development includes non-housing development, the scale of any such development and the use to which it is to be put;
- the date that the land was first entered in the BLR and where applicable, the date that information about the land was last updated in the BLR;

2.8 To ensure that the 31 December 2017 deadline will be met, work has commenced on the Council's BLR. The work has been based on the requirements set out within the regulations and will be reviewed if necessary when the guidance is published.

2.9 The BLR is in two parts, Part 1 is a comprehensive list of all brownfield sites in a Local Authority area and that the Local Authority considers suitable for housing irrespective of their planning status. Sites in Part 1 of the BLR must meet the criteria:

- the land has an area of at least 0.25 hectares or is capable of supporting at least 5 dwellings;

- the land is suitable for residential development;
- the land is available for residential development;
- residential development of the land is achievable^[1]

2.10 Part 2 of the BLR has the potential to add additional sites to the 5 and 20 year housing land supply and will give greater certainty on the future sources of brownfield land supply. Part 2 of the BLR is a subset of Part 1 and will include only those sites for which Permission in Principle (PiP) has been granted.

2.11 If a local authority considers that PiP should be granted for a site in Part 1 and the local authority has followed the relevant procedures including whether a site is available^[2], the site can be entered in Part 2 of the BLR. Sites entered onto Part 2 of the BLR and will automatically gain PiP.

2.12 Granting of PiP will settle the fundamental principles of development (use, location, amount of development) for the brownfield site. Development on a site with PiP cannot proceed until technical details consent has been obtained which will assess the detailed design, appropriate mitigation of impacts, ensure contributions to essential infrastructure has been secured and that the consent has been determined in accordance with the local development plan.

2.13 Local planning authorities will be able to enter sites suitable for housing-led development on Part 2 of the BLR only after they have followed the consultation and publicity requirements and other procedures set out in the regulations. And that the Local Authority remain of the opinion that PiP should be granted on sites in Part 2 of the BLR.

2.14 A site may not be included on Part 2 of the BLR 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;

2.15 No fee will be payable for PiP granted through a BLR. There will however be a fee for an application for technical details consent for sites granted PiP through placement on Part 2 of the BLR.

¹ "achievable" in relation to residential development of any land means that, in the opinion of the local planning authority, the development is likely to take place within 15 years of the entry date (The Town and Country Planning (Brownfield Land Register) Regulations 2017).

² "available for residential development" in relation to any land means— that there has been an expressed intention to sell or develop the land and at not more than 21 days before the entry date that there is no evidence indicating a change to that intention. The local authority must also be of the opinion that there is no issues relating to the ownership of the land or other legal impediments which might prevent residential development of the land taking place. (The Town and Country Planning (Brownfield Land Register) Regulations 2017).

2.16 Officers are currently in the process of compiling Part 1 of the BLR and intend to bring it to the September meeting of this committee.

Sources of sites for inclusion in Part 1 comprise:

- sites with extant planning permission;
- housing allocations within the adopted and emerging Local Plans;
- sites accepted within the Strategic Housing and Economic Development Land Availability Assessment 2016;
- potentially, expired consents where the principle of development considered is acceptable;

2.17 Officers will review whether any of the sites proposed for Part 1 of the BLR could also potentially be included in Part 2. If the outcome of this review is that there are sites available and considered suitable for inclusion in Part 2, these will be presented as part of the September report to this Committee prior to consultation.

2.18 Consultation requirements for Part 2 of the BLR are stipulated in the regulations and state any potential sites for Part 2 will involve a 21 day notification to any person, body or authority who would have been required to be consulted in relation to an application for planning permission for residential development of the land. A refined BLR Part 2 list will then be reported back to this committee.

2.19 Local authorities are required to update the information relating to each entry and review the sites on their BLR at least once a year. On review, any sites no longer meeting the BLR criteria must be removed from Part 1 and if applicable Part 2. During review of the sites the Local Authority may carry out any procedures they see fit to assess the current status of the sites and must take into account any representations received.

Yearly review of BLR Part 1 and Part 2 sites may involve:

- updating the status of existing sites in the BLR Part 1 and 2, by checking availability of expired permission sites and removing sites completed or no longer available;
- review of sources and identification of new sites to be included in Part 1 and Part 2;
- publication of a revised BLR Part 1;
- consultation on potential new sites for BLR Part 2;
- publication of a revised BLR Part 2;

2.20 Sites for housing development on the BLR Part 1 and Part 2 which are considered to be deliverable^[3] can be counted towards the Council's 5 year and 20 year housing land supply.

³ To be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable. (National Planning Policy Framework 2012).

3. NEXT STEPS

3.1 The Brownfield Land Register Part 1 will be brought to committee in September for information and if any sites have been identified for Part 2, for agreement to consult on them.

4.2 The finalised Brownfield Land Register Part 1 and Part 2 will be published on the Council's website.

4. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	Identification and promotion of brownfield sites for housing to and will help towards the Council's vision for housing for all within the borough.	Mark Egerton, Planning Policy Manager
Risk Management	N/A	Mark Egerton, Planning Policy Manager
Financial	Grant funding of £14,645 has been provided by the government to cover the costs of setting up a BLR. There may be a potential loss in application fees on sites that have been placed in Part 2 of the BLR.	Mark Green, Section 151 Officer & Finance Team
Staffing	Production of the BLR can be accommodated within the existing staff structure	Mark Egerton, Planning Policy Manager
Legal	The preparation (and maintenance thereafter) of the brownfield land register will ensure the Council meets its statutory requirements under the Town and Country Planning (Brownfield Land Register) Regulations 2017 and the Town and Country Planning (Permission in Principle) Order 2017. Further legal advice will be provided during the course of the compilation of the register.	Team Leader – Contracts and Commissioning MKLS
Equality Impact Needs Assessment	N/A	Anna Collier, Policy &

		Information Manager
Environmental/Sustainable Development	The brownfield land register will help facilitate the development of brownfield sites to deliver housing.	Mark Egerton, Planning Policy Manager
Community Safety	N/A	Mark Egerton, Planning Policy Manager
Human Rights Act	N/A	Mark Egerton, Planning Policy Manager
Procurement	N/A	Mark Egerton, Planning Policy Manager
Asset Management	N/A	Mark Egerton, Planning Policy Manager