

WELWYN HATFIELD BOROUGH COUNCIL
CABINET PLANNING & PARKING PANEL – 14 DECEMBER 2017
REPORT OF THE EXECUTIVE DIRECTOR (PUBLIC PROTECTION, PLANNING AND
GOVERNANCE)

2017 BROWNFIELD LAND REGISTER

1 Executive Summary

- 1.1 Earlier this year, the Government introduced new legislation which requires planning authorities to prepare a Brownfield Land Register. In October 2017 the Panel was presented with a report setting out how the Council intended to implement its requirement to publish a Brownfield Land Register by December 2017 and then at least one per year thereafter, including details on the Technical Data Standard against which the Council is required to publish the Register.
- 1.2 This report sets out details on the sites included in the Council's 2017 Brownfield Land Register. No sites have been included on Part 2 of the Register this year, meaning that 'Permission in Principle' has not been granted to any site. At this stage the Brownfield Land Register for Welwyn Hatfield is purely a means of providing information about land availability in the borough.

2 Recommendation(s)

- 2.1 That the Panel notes the quantum of sites and dwelling capacity on the 2017 Brownfield Land Register, and that the Register will now be formally published on the Council's website.

3 Background

- 3.1 Successive governments have introduced changes to the planning system with the intention of boosting the supply of housing land across the country. In common with this Council, the Government has been particularly keen to maximise the delivery of housing on previously developed land (commonly referred to as 'brownfield land').
- 3.2 The Housing and Planning Act 2016 makes provision for local authorities to prepare and maintain a Brownfield Land Register (BLR), with the Town and Country Planning (Brownfield Land Register) Regulations 2017 then introducing a requirement for authorities to publish their BLR by 31 December 2017. The Government hopes that BLRs will enable a better understanding of the quantum and availability of previously developed land within each local authority area. This evidence will assist in the calculation of an authority's five year housing land supply, and is therefore is an incentive for an authority to include as many sites in their BLR as possible.
- 3.3 Another new mechanism intended to increase the supply of housing is 'Permission in Principle' (PiP). As the name suggests, PiP allows the principle of development on a site to be established, without need for the level of detail and evidence typically

required when granting a conventional outline or full planning permission. Sites receiving PiP would then only subsequently need to seek a 'Technical Details Consent', where more detailed issues aside from the principle of development would be considered. In due course there are expected to be several means by which PiP can be given, but the Town and Country Planning (Permission in Principle) Order 2017 provides a mechanism to do so through the BLR.

- 3.4 The previous report to the Panel in October 2017 indicated that the Council did not intend to grant PiP to any sites this year ('Part 2' of the Register), due to the late stage at which the Government released its Technical Data Standard against which the BLR has to published, and the need for officers to prioritise the examination of the Council's Local Plan. The 2017 BLR therefore only includes sites in 'Part 1' of the Register, which means that those entries are for information only.

4 Explanation

- 4.1 Brownfield Land Registers apply to previously developed land – whilst this *generally* encompasses all land which has previously been occupied by built development, there are some exceptions. For example land occupied by agricultural buildings such as barns is not classed as previously developed; and neither is land which has returned to a more natural state over the passage of time, despite once having been developed. It is also important to note that 'brownfield' is not simply the opposite of 'Green Belt' – this can be a common public misconception. Some Green Belt land *is* previously developed (the former research and development facility at The Frythe in Welwyn would be a notable local example), whilst conversely there are parts of the borough's urban areas which have never been built on and are not brownfield.
- 4.2 The criteria for the inclusion of a site in the BLR are set out in the Town and Country Planning (Brownfield Land Register) Regulations 2017. These are numerous, but essentially form three main tests – whether or not a site is *suitable* for development, whether or not a site is *available* for development, and whether or not development on a site is likely to be *achievable*. Sites must also be at least 0.25ha in size, or otherwise be considered able to accommodate 5 or more dwellings. A local authority must finally be satisfied that representations received do not create doubt around suitability, availability or achievability – the Regulations offer the opportunity to actively publicise the BLR prior to its formal publication in order to seek such representations, but there is no requirement to do so.
- 4.3 These criteria are very similar to those by which sites were assessed in the Council's 2016 Housing and Economic Land Availability Assessment (HELAA), and all appropriate brownfield sites from the HELAA (most of which are proposed for allocation in the Local Plan) have been included in the BLR. In addition, the Register needs to include sites which already have a form of planning permission. As the requirement for site owners or developers to actively express an intention to develop their land has already been taking place as part of the preparation of the Local Plan, a fresh 'call for sites' has not been carried out this year.
- 4.4 In terms of the actual content of Part 1 of the BLR, the requirements in Schedule 2 of the Brownfield Land Register Regulations 2017 are relatively straightforward. They primarily relate to a site's location and delivery status, as well as its potential dwelling capacity. The Register must be published in accordance with the government's prescribed Technical Data Standard, which includes a validation routine to ensure that data has been entered correctly into a spreadsheet.

- 4.5 As can be seen from the 2017 Brownfield Land Register now presented to the Panel, the format of data presentation which the Technical Data Standard requires is somewhat 'dry', and may even be off-putting to those a more casual interest in the BLR (for example, borough residents). Appendix 3 to the previous report to the Panel in October 2017 included a single page site information template which could be completed for each site, showing key details and the location of each on a map. Whilst the short timescales since the Government published its data standard (at which point the benefits of a more accessible format in which to present the Register became apparent) and the need to concentrate resources on the Local Plan examination have meant it has not been possible to complete these templates this year, it is intended to do so in future years.
- 4.6 A list of the sites on the register, alongside basic information for each (such as dwelling capacity and current status) is therefore included as Appendix 1 to this report – because of the data standard's requirements to publish the BLR as a spreadsheet with a significant number of columns, it is not possible to provide it in a format where it would be legible on paper. The full BLR can however be viewed online at www.welhat.gov.uk/brownfieldland.
- 4.7 In order to meet the definition of a site being 'available for residential development' in Regulation 4 of the Brownfield Land Register Regulations 2017, there must have been no evidence of a change to a landowner's intention at least 21 days before the inclusion of a site on a BLR. The cut-off date for the inclusion of sites on the Register was therefore 24 November 2017 (21 days before this meeting, following which the BLR will be published formally). As of that date there were 62 sites suitable for inclusion on the BLR, with a total dwelling capacity of 2,855. Sites are only included where some or all of the dwellings on a site have not yet been completed – sites which are now fully developed do not appear in the Register. The dwelling capacities indicates for sites also exclude any dwellings already completed.
- 4.8 The sites on the 2017 Brownfield Land Register can be summarised by current planning status and settlement as follows:

Current planning status	Number of sites	Dwelling Capacity
Permissioned – Full consent or prior approval	47	1,264
Permissioned – Outline consent	1	850
Pending decision – Application submitted	3	112
Not permissioned – Local Plan allocation	9	615
Not permissioned – Other suitable site ¹	2	14
Total	62	2,855

¹This year, all of these other suitable sites were found suitable in the 2016 Housing and Economic Land Availability Assessment (HELAA).

Settlement	Number of sites	Dwelling Capacity
Welwyn Garden City	28	2,207
Hatfield	16	450
Welwyn	4	85
Cuffley	3	62
Rural Areas	6	27
Brookmans Park	2	16
Digswell	2	6
Oaklands & Mardley Heath	1	2
Total	62	2,855

- 4.9 It is apparent from these figures that the vast majority of sites on the 2017 BLR already have a form of planning permission in place. Only 11 sites, equivalent to 629 dwellings (22% of the total), are 'not permissioned' and yet to move towards the planning application process – this is generally because existing leases on those sites have not yet ended (but it is known that landowners intend to bring them forward for development once those leases have ended).
- 4.10 In terms of the geographic spread of sites on the Register there is a reasonable distribution around the borough, with some 18 sites (29% of the total) in village and rural locations. However, these only account for 198 of the dwellings on the Register (7% of the total). The vast majority of dwellings are in Welwyn Garden City (77%), with even Hatfield having a relatively small proportion (16%).

Implications

5 Legal Implication(s)

- 5.1 The Council has a statutory requirement under the Town and Country Planning (Brownfield Land Register) Regulations 2017 to publish a BLR by 31 December 2017.
- 5.2 It should be noted that there is no formal mechanism for a landowner or developer to appeal their site's non-inclusion on the BLR, nor to contend individual conclusions made in the BLR even if a site is included. There is therefore a possibility that aggrieved landowners or developers would seek a full judicial review of the Council's approach. However, landowners' ability to still make a separate planning application through existing processes for a scheme of their choosing means that such an outcome should in practice be relatively unlikely.

6 Financial Implication(s)

- 6.1 The preparation of the 2017 BLR has been met within existing budgets, and there are no financial implications arising from its publication.

7 Risk Management Implications

- 7.1 There are no identified risk management implications as a result of publishing the BLR.

8 Security & Terrorism Implication(s)

- 8.1 There are no security and terrorism implications as a result of publishing the BLR.

9 Procurement Implication(s)

- 9.1 There are no procurement implications arising as a result of publishing the BLR.

10 Climate Change Implication(s)

- 10.1 There are no climate change implications arising as a result of publishing the BLR.

11 Policy Implication(s)

- 11.1 There are no policy implications arising as a result of publishing the BLR.

12 Link to Corporate Priorities

- 12.1 The production of the BLR is linked to Priority 3 (meet the borough's housing needs).

13 Equality and Diversity

- 13.1 Because the preparation of a BLR follows a prescribed process and is not the Council's own policy, an Equalities Impact Assessment has not been carried out. The Department for Communities and Local Government's February 2016 Technical Consultation on the introduction of BLRs and PiP did consider the equalities impacts of the proposals, and judged that they would not be adverse.

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27 November 2017

Appendices:

Appendix 1 – List of sites included on the 2017 Brownfield Land Register

Appendix 2 – 2017 Brownfield Land Register (at www.welhat.gov.uk/brownfieldland)