

HAMBLETON DISTRICT COUNCIL

Report To: Audit Governance and Standards Committee
27 September 2017

From: Director of Environment and Planning

Subject: **BROWNFIELD LAND REGISTER AND PERMISSION IN PRINCIPLE**

All Wards
Portfolio Holder for Planning: Councillor D Webster

1.0 PURPOSE AND BACKGROUND:

- 1.1 In March 2017 the Town and Country Planning (Brownfield Land Register) Regulations and Town and Country Planning (Permission in Principle) Orders 2017 were laid before Parliament. The regulations require local authorities to prepare and maintain registers of brownfield land that is suitable for residential development. The Government believes that Brownfield Land Registers will provide better information for developers and communities about brownfield land suitable for housing and so may help boost the delivery of new housing.
- 1.2 The Brownfield Land Register is in two parts. Part 1 of the Register is a list of all the brownfield sites in a local area that are considered suitable for housing, irrespective of their planning status. Part 2 of the Register is a list of sites that additionally are granted Permission in Principle.
- 1.3 Local authorities are required to compile and publish their Part 1 Registers by 31st December 2017; the list must then be reviewed at least annually. Sites which are entered onto the Brownfield Land Register must meet the following criteria:-
 - The land has an area of at least 0.25 hectares or is capable of supporting at least 5 dwellings (there is discretion to enter smaller sites if all the other criteria are met);
 - The land is suitable for residential development;
 - The land is available for residential development; and
 - Residential development of the land is achievable.

Further guidance is provided on the definitions of “achievable” and “available” land, which require landowner and/or developer commitment and expected delivery of housing on the site within 15 years. Indicators that a site is “suitable” may include a previous grant of planning permission, allocation in the LDF or may be the opinion of the Local Authority.

- 1.4 Although the Regulations do not require consultation prior to sites being included within Part 1 of the Register they do specify that Local Planning Authorities should take account of any representations received. For this reason it is considered appropriate to publicise the draft Part 1 Register prior to its publication in December. Through the Local Plan Call for Sites exercise there are a number of sites which are considered to meet the criteria for inclusion on Part 1; however consultation may result in the submission of further appropriate sites. Thereafter it is considered appropriate to carry out notification and consultation for sites that either do not already have planning permission for housing or are not already allocated for housing.

- 1.5 Local Planning Authorities must publish a Part 2 of the Register even if there are no entries. Part 2 is a subset of Part 1 and will include only those sites for which Permission in Principle has been granted. Permission in Principle, along with a supplementary Technical Details Consent, is an alternative route to full planning permission and reduces the risk for small developers. The Regulations already require consultation on the sites proposed for Permission in Principle which includes the use of site notices in a prescribed form, advertisement on the authority website and consultation with neighbourhood plan groups and statutory consultees. The notification and consultation arrangements would therefore be the same as for a planning application. Further guidance is still awaited on Permission in Principle by application and within local plans.
- 1.6 Once a site has Permission in Principle there is a requirement to obtain Technical Details Consent before building. Although there is no fee for entry onto the Register normal planning application fees apply at the technical details stage.

Decision Making

- 1.7 The new Regulations have also introduced changes to those impacting the functions and responsibilities of Local Authorities, which means that the decision to include a site in Part 2, i.e. grant Permission in Principle, cannot be made by the authority's Cabinet. The following arrangements are suggested for determining whether a site meeting the statutory criteria should be included in Part 1 of the Register:
- If the site has planning permission for housing or is allocated for housing in the development plan – officer authority.
 - If the site does not have planning permission for housing or is not allocated for housing in the development plan – Planning Committee.
- 1.8 It is suggested that determination of applications seeking Permission in Principle and Technical Details Consent are made in the same way as applications for outline planning permission and approval of reserved matters, i.e. by Planning Committee or under officer authority subject to the call-in procedures set out in the Local Code of Conduct for Members and Officers Dealing with Planning Matters. However, where the Council initiates a proposal for Permission in Principle, this should always be decided by the Planning Committee.
- 1.9 Appropriate changes will need to be made to the Constitution in order to administer the arrangements suggested in paragraph 1.7. The arrangements suggested in paragraph 1.8 are considered to fall within the definition of “functions relating to development control” already set out within the Constitution.

2.0 LINK TO COUNCIL PRIORITIES:

- 2.1 These new measure are intended to facilitate increased supply of new housing and therefore match the Council's priority of Providing a Special Place to Live.

3.0 RISK ASSESSMENT:

- 3.2 **The key risk is in not approving the recommendation(s) as shown below:-**

Risk	Implication	Prob*	Imp*	Total	Preventative action
The Council is not meeting the requirement of the Regulations to prepare and maintain a register	The Council is not fulfilling a statutory Government requirement.	5	5	25	Publish and maintain a Brownfield Land Register.

of brownfield land which is suitable for residential development.					
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Prob = Probability, Imp = Impact, Score range is Low = 1, High = 5

- 3.3 Overall the risk of agreeing with the recommendations outweighs the risks of not agreeing them and is considered acceptable.

4.0 FINANCIAL IMPLICATIONS:

- 4.1 The Council has received £14,645 New Burdens Funding for the Brownfield Register and Permission in Principle.

Overall the revenue effects of the Brownfield Land Register will be as follows:-

Revenue Effects	2017/18 £	2018/19 £	2019/20 £	2020/2021 £
Cost: Technical Officer for 12 months	£7,595	£7,670	£0	£0
Financed by: Additional Burdens Funding Current Budget	£7,323 £272	£7,322 £348	£0 £0	£0 £0
	£0	£0	£0	£0

5.0 LEGAL IMPLICATIONS:

- 5.1 The recommended actions would enable the Council to respond to a statutory responsibility in accordance with its constitution.

6.0 EQUALITY/DIVERSITY ISSUES

- 6.1 Equality and Diversity Issues and have been considered however there are no issues associated with this report.

7.0 RECOMMENDATION(S):

- 7.1 That the Committee recommends to Council that:-

- (1) it be noted that Council will consult on and publish Part 1 of the Brownfield Land Register by 31st December 2017;
- (2) in consequence of (1) above, Council amends the Responsibility for Council Functions and the Scheme of Officer Delegation within the Constitution to:
 - (i) Authorise the Executive Director to place sites that meet the relevant statutory criteria and have planning permission for housing, or are allocated for housing in the development plan on Part 1 of the Brownfield Land Register;

- (ii) Authorise the Planning Committee to place sites that meet the relevant statutory criteria but do not have planning permission for housing or are not allocated for housing in the development plan on Part 1 of the Brownfield Land Register;
 - (iii) Authorise the Executive Director to place any site with Permission in Principle on Part 2 of the Brownfield Land Register; and
 - (iv) Authorise the Executive Director to remove sites that are considered to no longer meet the relevant statutory criteria or on expiry of Permission in Principle from the Brownfield Land Register.
- (3) Authority be given to the Director of Law and Governance to make any further consequential amendments to the Constitution.

HELEN KEMP
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Background papers:

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