

## **DELEGATED**

# Brownfield Land Register 2020

## **Report of Deputy Chief Executive – People and Place**

Portfolio Holder: Councillor Roberts, Cabinet Member for Housing

17<sup>th</sup> December 2020

Officer Contact: Lauren Hargreaves, Planning Officer, Ext.3843

### **Reason for Decision:**

To seek approval for the publication of an update of Oldham's 2020 Brownfield Land Register.

### **Executive Summary**

The Town and Country Planning (Brownfield Land Register) Regulations came into force in April 2017 and require each local planning authority to prepare and maintain a Brownfield Land Register. The Regulations require the register to be updated at least annually. This report now seeks approval for the 2020 update.

The purpose of the register is to provide up-to-date and consistent information on brownfield land that the local authority considers to be appropriate for residential development. The register comprises of two parts: Part 1 includes all brownfield sites considered suitable for residential development and Part 2 is for sites which have been granted (planning) permission in principle.

This report explains the process of preparing the Brownfield Register and sets out the implications for Oldham. As was the case in 2018 and 2019, it is recommended that no sites are proposed for permission in principle. Therefore, the Brownfield Register which is being sought for approval only includes Part 1 sites.

### **Recommendation**

It is recommended:

- To note the approach to determining sites to include in Part 1 and 2 of the Brownfield Register;

- To approve a 2020 update of the Brownfield Land Register (Part 1 only) for publication;
- Delegate authority to make minor amendments and updates to the register throughout the year, if required, to the Deputy Chief Executive - People and Place.

## Brownfield Land Register 2020

### 1 Background

- 1.1 The Town and Country Planning (Brownfield Land Register) Regulations 2017 require each local planning authority in England to prepare, maintain and publish a register of previously developed (brownfield) land suitable for housing. The government considers the purpose of the register is to provide up-to-date and consistent information on sites that local authorities consider appropriate for residential development. To accompany the legislation, they published guidance on preparing and publishing brownfield land registers and a data standard on 28 July 2017.
- 1.2 For the purposes of the register, brownfield land is the same as the definition of previously developed land set out in Annex 2 of the National Planning Policy Framework (NPPF):
- “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 was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as 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”.
- 1.3 Local authorities are required to update the information relating to each entry and review the sites on their registers at least once a year and are encouraged to conduct more frequent updates of the register where they wish to so do.
- 1.4 The register is made up of two parts, with Part 2 being a subset of Part 1:
- Part 1 comprises all brownfield sites that the Council has assessed as appropriate for residential development and could include sites with or without planning permission.
  - Part 2 identifies sites that the local authority has decided should be granted (planning) permission in principle (PiP) for residential development. PiP is an alternative route to obtaining planning permission which separates “in principle” matters, such as use and location, from technical details, which are left to be agreed later. The theory is that this will provide greater certainty earlier on in the planning process, making it easier for developers to commit resources to a scheme in the knowledge that the principle of development has already been established and they only need to agree the details.

## 2 Sites to be included on the Register

- 2.1 The register must include all parcels of brownfield land of at least 0.25 hectares in size, or capable of supporting at least 5 dwellings, that the Council considers to be suitable and available for residential development and that is considered achievable. Sites below these thresholds can also be included on the register at the discretion of the local authority.
- 2.2 Regulation 4 of the Brownfield Land Register Regulations 2017 states that sites on the brownfield register must be:
- **Suitable** for residential development (which includes any site which: has been allocated for housing in the Local Plan; has planning permission for housing; or is, in the opinion of the Council, appropriate for housing having regard to any adverse impact on the natural or local built environment (including heritage assets), local amenity and any representations received).
  - **Available** for residential development, which means there is known landowner or developer interest, or the Council considers there are no issues relating to ownership or other legal impediments that might prevent residential development.
  - **Achievable**, meaning that the Council considers that residential development is likely to take place within 15 years of the entry date on the register.
- 2.3 The selection of sites to include in the register has been informed by ongoing housing land monitoring and is a sub-set of the sites identified in the Strategic Housing Land Availability Assessment (SHLAA), as at 1 April 2020.
- 2.4 As the sites to be included are only those that are considered to meet the criteria set out in Regulation 4, the Council has decided to identify the following categories of brownfield land for the register:
- Sites that (as of 1<sup>st</sup> April 2020) have, or have previously had, planning permission for residential development for at least five dwellings<sup>1</sup>;
  - Other sites without residential planning permission which have been identified as “suitable”, “available” and “achievable” in the SHLAA, as at 1 April 2020.
- 2.5 For each site on the register, the minimum net number of dwellings that the site should support needs to be identified. For sites with a current or previous planning permission, this has been given as the number of homes approved as part of that permission. On sites without planning permission, the number stated is that published in the SHLAA. The capacity will be reviewed following

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<sup>1</sup> This does not include sites that are actively under construction or where construction has stalled as, following advice from a 2017 DCLG in response to a query from Wigan Council, these are not considered “available” for the purposes of the register.

the findings of any review of the SHLAA and any changes in density assumptions.

- 2.6 For the 2020 update, the register contains 159 sites which meet the criteria as set out within Regulation 4. However, it should be noted that some of these sites, such as those which have been built out, are no longer available brownfield land. As per the updated guidance, outlined below, these sites remain on the register as evidence. Where this is the case, an end date has been included to show that the site is no longer available.
- 2.7 It should be recognised that the brownfield register only presents a partial picture of the total amount of brownfield land in Oldham. This is because of a). the requirements to meet the criteria set out in Regulation 4 (for example, this excludes sites which may be suitable but where it is not known if the land is available) and b). because of the strict requirement to identify *only* brownfield land. Sites which include a mix of brownfield and greenfield land have not been included on the register, unless there is only a very small amount of greenfield land within the site and it would not be reasonable to exclude this. The SHLAA will continue to remain the comprehensive assessment of future housing land supply.
- 2.8 Updated guidance was published in October 2019 which set out updated requirements for the register. Further detail is available within the Brownfield Register Report. The main updates were as follows:
- any new brownfield sites should be added as a new row to the published CSV file. If a site is no longer considered brownfield land (i.e. has been built out for housing or other uses), do not delete this entry but fill in the “EndDate” field;
  - new guidance on publishing the data, including uploading the register as open data to the government website; and
  - several columns within the register CSV file have been amended or have been removed from the specification.

### *Part 2 of the Brownfield Land Register*

- 2.9 It is important to note that no sites have been included on Part 2 of the register. Given the resources that would be required to grant PiP and the continued policy support to encourage brownfield development in any case, it is not proposed that the Council progresses Part 2 of its brownfield register at this time.
- 2.10 It is also considered that, due to the limited scope of PiP, issues such as design quality cannot be as effectively managed as they would be through a conventional planning application. PiP for housing on a mixed-use site may make it difficult to negotiate an appropriate balance of uses once a final scheme is being decided. It is better if such issues are considered as early in the design process as possible but the need to wait for technical details consent stage during a PiP application makes the process less effective.

Whilst the Council can refuse technical detail consent if an application does not meet quality standards, this would delay development and undermine the fundamental intention of the in principle process. PiP could also raise land values making otherwise sustainable sites unviable, as well as potentially compromising quality standards.

- 2.11 The decision not to progress Part 2 will, however, be kept under review. This is particularly the case given that the Council may, in future, become obligated by the government to start granting PiP.

### *Strategic Environmental Assessment (SEA)*

- 2.12 Government guidance notes it is possible that the Environmental Assessment of Plans and Programmes Regulations 2004 could apply, depending on the content of the brownfield register. However, it goes on to note that, given the nature of registers, the content of SEA is likely to be limited in scope and it may be appropriate to use assessments undertaken during the preparation of the Local Plan.

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## **3 Options/Alternatives**

- 3.1 Option 1 – Publish Part 1 of Oldham’s Brownfield Land Register in line with the Regulations as per the recommendations above.
- 3.2 Option 2 – Not publish an updated Brownfield Land Register as the 2020 SHLAA already contains all brownfield land considered suitable for housing development. This would not comply with the current Regulations.

## **4 Preferred Option**

- 4.1 Option 1 is the Preferred Option. The need to publish a Brownfield Land Register is set out in legislation but there is no current obligation to include sites on Part 2 of the Register. Option 2 would not be in line with the Regulations and would miss out on the opportunity to use the Brownfield Land Register as a promotional tool identifying development potential in the borough and to encourage development on brownfield land.

## **5 Consultation**

- 5.1 Local authorities are not required to undertake consultation in relation to sites they propose to include only in Part 1 of the register. Regulation 5(6) does however allow authorities to carry out procedures (including consultation) as it sees fit, and must take into account any representations received within any period it specifies.

## **6 Financial Implications**

- 6.1 As the report will be published on-line there will be no additional revenue costs to be charged to the service associated with publishing the plan.  
(Jamie Kelly)

## **7 Legal Services Comments**

7.1 The duty to prepare, maintain and publish a Brownfield Land Register is contained in Regulation 3 of the Town and Country Planning (Brownfield Land Register) Regulations 2017, which is an executive function for the purposes of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. The Council must review and update as necessary the entries in the register at least once within each register year.

7.2 The Brownfield Land Register Regulations do not require the Council to include sites in Part 2 of the Register. The Council is only required to do so if it has decided to grant permission in principle pursuant to sections 58A and 59A of the Town & Country Planning Act 1990. The duty to enter land in Part 2 of the Register is not an executive function and cannot be undertaken by the Cabinet. (A Evans)

## **8. Cooperative Agenda**

8.1 The purpose of producing a Brownfield Land Register is to provide an up to date, standardised public dataset about brownfield land that is suitable for residential development. This complements the Council's priorities and objectives under the Cooperative Agenda.

## **9 Human Resources Comments**

9.1 Not applicable

## **10 Risk Assessments**

10.1 The preferred option sets out how the Council will comply with legislation (Mark Stenson).

## **11 IT Implications**

11.1 The register must provide links to site plans which are intended to be accessed on the Council's public mapping system. This will need to be kept up to date as and when the register is reviewed.

## **12 Property Implications**

12.1 The purpose of the register is to provide up-to-date and consistent information on brownfield land that the local authority considers to be appropriate for residential development. Its publication to support suitable sites being brought forward for development at the earliest opportunity is therefore fully supported. (Bryn Cooke)

## **13 Procurement Implications**

13.1 Not applicable

14 **Environmental and Health & Safety Implications**

14.1 The Brownfield Land Register provides information on brownfield land which could be developed for housing. The development of this type of land is a national and local planning policy priority in relation to sustainable development.

15 **Equality, community cohesion and crime implications**

15.1 The Brownfield Land Register forms part of the Evidence Base for the Local Plan, which will be the borough's planning and development document and reflects community cohesion issues.

16 **Equality Impact Assessment Completed?**

16.1 No, however the Brownfield Land Register forms part of the Evidence Base for the Local Plan, which will be the borough's planning and development document and reflects community cohesion issues.

17 **Key Decision**

17.1 HSG-10-20

18 **Background Papers**



18.1 None

19 **Appendices**

Appendix One: Brownfield Register Report (for website)

Appendix Two: Brownfield Land Register 2020 (Excel spreadsheet and csv file)

Appendix Three: Brownfield Land Register site maps by district (7 maps)

<b>DELETE IF CABINET DECISION</b>	
Signed  Cabinet Member Cllr Hannah Roberts	Dated 22 December 2020
Signed  Deputy Chief Executive	Dated 22 December 2020



