

Report to CABINET

Oldham's Brownfield Land Register 2024

Portfolio Holder:

Councillor Taylor, Cabinet Member for Decent Homes

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Reason for Decision

To seek approval for the publication of Oldham's 2024 Brownfield Land Register.

Executive Summary

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.

The Brownfield Register update for 2024 includes 185 sites. Further information on which sites are included within the Register is set out in the background of this report.

A Brownfield 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.

As with previous updates of Oldham's Brownfield Register, it is not proposed to include sites on Part 2 of the Register at this time. Further details regarding this position are provided in the background of this report. 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.

This is Oldham Council's 8th Brownfield Register.

Recommendations

It is recommended to approve and publish Part 1 of Oldham's Brownfield Land Register 2024 in line with the Regulations.

It is recommended to note the approach to determining sites to include in Part 1 and 2 of the Brownfield Register; to approve a 2024 update of the Brownfield Land Register (Part 1 only) for publication; and to delegate authority to make minor amendments and updates to the register throughout the year, if required, to the Deputy Chief Executive of Place.

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.

Oldham's Brownfield Land Register 2024**1 Background – a summary of the following text will be published on Oldham Council's Brownfield Land Register Webpage¹**

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 do so.

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.

Sites to be included on the Register

1.5 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, available

¹ https://www.oldham.gov.uk/homepage/1386/brownfield_land_register

and achievable for residential development. Sites below these thresholds can also be included on the register at the discretion of the local authority.

1.6 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 that: 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.

1.7 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 2024.

1.8 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 April 2024) have, or have previously had, planning permission for residential development for at least five dwellings²;
- Other sites without residential planning permission which have been identified as “suitable”, “available” and “achievable” in the SHLAA, as at 1 April 2024.

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

1.10 For the 2024 update, the register contains 185 sites which meet the criteria as set out within Regulation 4. However, it should be noted that 35 of these sites, are now built out and as such 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.

1.11 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

² 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.

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.

Part 2 of the Brownfield Land Register

- 1.12 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.
- 1.13 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.
- 1.14 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.

National Planning Policy – Proposed Amendments

- 1.15 On the 30 July 2024 the Government published details of their proposed reforms to the National Planning Policy Framework (NPPF)³. Whilst several changes are proposed to the housing policies, references to the use of Brownfield Registers, to promote brownfield land for development, remains unchanged (the requirement for local authorities to produce a Brownfield Register sits outside of the NPPF - in The Town and Country Planning Regulations 2017).
- 1.16 The proposed NPPF (for consultation) places greater emphasis on the development of brownfield land to meet housing needs. Additional policy wording has been added to clarify that brownfield development should be considered acceptable in principle (paragraph 122c) and policy has been added around the development of 'Grey Belt' land. Grey Belt land is introduced in the proposed NPPF, as land in the Green Belt comprising previously developed land and any other parcels and/or areas of Green Belt land that make a limited contribution to the five Green Belt purposes (excluding areas of particular importance – footnote 7 of NPPF). Whilst previously developed land (brownfield land) in the Green Belt has always been considered appropriate for development (in principle and in line with Green Belt policy) as per the existing NPPF, the proposed NPPF relaxes the restrictions that are currently applied to previously developed land and limited infill in the Green Belt. In addition, the consultation considers expanding the definition of previously developed land in the Green Belt (to include hardstanding and glasshouses).

2 Current Position

- 2.1 This is Oldham's 8th Brownfield Register and updates the previous Register (published in December 2023), for 2024. It includes 185 sites which meet the criteria as set out within Regulation 4, on Part 1 of the Register (Part 2 is not proposed).

³ Proposed reforms to the National Planning Policy Framework and other changes to the planning system - GOV.UK (www.gov.uk)

3 Options/Alternatives

3.1 The following options are considered:

Option 1 - To approve and publish Part 1 of Oldham's Brownfield Land Register 2024 in line with the Regulations. Part 2 is not proposed.

Option 2 - To not approve and publish an updated Brownfield Land Register as the 2024 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 as this would comply with Regulations (there is no current obligation to include sites on Part 2 of the Register).

5 Consultation

5.1 N/a. The Brownfield Register will be made available on the council's website for the public to view.

6 Financial Implications

6.1 As per the report, Oldham's 2024 Brownfield Land Register will be published on-line.

Therefore, there will be no additional revenue costs to be charged to the service associated with the publishing of this register.

(Mohammed Hussain)

7 Legal Implications

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.

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, Group Solicitor)

8 Equality Impact, including implications for Children and Young People

8.1 An Equality Impact Assessment has been carried out. The Brownfield Register scored strong positive, positive and neutral against the Equality Characteristics, Future Oldham Aims and Corporate Priorities.



Brownfield
Register.pdf

9 **Key Decision**

9.1 Yes

10 **Key Decision Reference**

11.1 ESR-16-24

12 **Background Papers**

12.1 There are no background papers for this report.

13 **Appendices**

13.1 Appendix One: Oldham's Brownfield Register (excel and csv)
Appendix Two: Oldham's Brownfield Register District Maps