

REPORT FROM: PLANNING, BUILDING CONTROL AND LICENSING SERVICES MANAGER

TO: EXECUTIVE

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Report Author: Neil Watson
Tel. No: 01282 661706
E-mail: neil.watson@pendle.gov.uk

BROWNFIELD REGISTERS AND PERMISSION IN PRINCIPLE

PURPOSE OF REPORT

- (1) To inform the Executive of the need to produce a register and what that will contain.
- (2) To inform the Executive of the process for granting Permission In Principle (“PIP”).
- (3) To inform the Executive of the financial implications that implementing PIPs could have.

RECOMMENDATIONS

- (1) That the Executive agree the approach to implementing the legislation.
- (2) That we do not recommend that we pursue PIPs unless a change in the fees regulations compensate Pendle for the loss of income.
- (3) That we do not consult on including sites in the Part 1 Register.

REASONS FOR RECOMMENDATIONS

- (1) To ensure that the Council is aware of what is required under the new legislation.
- (2) In order not to have a loss of income through the PIP process.
- (3) The sites have already been publicised through the SHLAA process.

ISSUE

- 1 Pendle took part in a pilot scheme to develop Brownfield Registers last year. The pilot set out to look at how a register of all brownfield land, which satisfied certain criteria, could be assimilated into a register that would then be accessible in a standard form nationally. The Government at the same time set out their general intention to grant basic planning permission under a regime referred to as PIP.

- 2 The legislation for both of these has now been issued, although there is still further legislation to be issued extending the circumstances in which PIP could be granted.

Brownfield Registers

- 3 The Town & Country Planning (Brownfield Land Register) Regulations 2017 set the detailed parameters of what the register must contain. The Register must contain two parts and must be published no later than 31 December 2017. Part one is mandatory and this is where the brownfield sites that satisfy the criteria must be contained.
- 4 Part 2 is not mandatory. This is the part of the Register that will contain those sites granted PIP.
- 5 The register must contain all brownfield land that is suitable for residential development. Development can contain other forms of development other than solely residential but it must be residential led. The land must be brownfield as defined in Annex 2 to the National Planning Policy Framework (“the Framework”) (this excludes agricultural buildings/land, land in built up areas such as residential gardens and land that was previously developed but where the remains of permanent buildings have blended into the landscape)
- 6 The criteria for entering land into the register are principally set out in Regulation 4. In overall terms the land must be:
- Larger than 0.25 ha
 - Suitable for residential development (Suitable is defined as land that has been allocated, has planning permission, has a PIP in place
 - Is in our opinion appropriate for residential development as regards adverse impacts on i) the natural environment, ii) the local built environment including heritage assets, iii) any adverse impacts on the local amenity (not defined) and iv) any representations received – (we can refer to Local Plan policies in considering these issues
 - Available which means that the owner has expressed an intention to sell or a developer has expressed an interest to develop and we are of the view that there are no issues relating to land ownership or other legal impediments which may prevent residential development taking place. We can take on board any representations made if we choose to publicise the register.
- 7 There is a change in the register from the criteria used for the draft one. The previous criteria was to include land that had the potential to be developed and was viable. The regulations now say that land should be included if in our opinion development is likely to take place in the next 15 years.
- 8 Any greenfield land that is within the boundary of a brownfield site cannot be entered into the register.
- 9 The legislation states that for inclusion in part 1 the Council”may carry out procedures (including consultation) as they see fit”. Inclusion of sites in the Part 1 Register is mandatory where the sites meet the criteria set out in the legislation. It would confuse the public were we to consult on the Part 1 register and then not take comments on board which objected based on grounds we cannot take into account.

Fee Income

- 10 In the 2 financial years 2015-2017 we only received £3,080 fee come from outline applications on brownfield sites. This is particularly due to these sites not currently being generally viable. There are however 48.89 ha of potential brownfield land that could be granted PIP. Income from planning fees for these would be £188,265. Excluding the sites that already have planning permission the income loss would be £136,675. In a viable planning market the loss of income would be more than half of total fee income planning applications currently generated.

Strategic Environmental Assessment (“SEA”)

- 11 All Plans or Programmes that are considered likely to have a significant effect on the environment need to be the subject of SEA. This is a process that looks at the environmental impacts of development and integrates these into the adoption of the Plan or Programme. The impacts also have then to be looked at set against alternative proposals. We will undertake an appropriate Screening process to determine whether SEA is necessary. As the development of brownfield land forms an integral part of our Core Strategy and the number of houses involved would not increase our housing needs it is unlikely that SEA will be required.

Publicity

- 12 Unlike for the granting of PIP there is no formal publicity required to enter land on Part 1 of the register. We can however undertake a public consultation process on a voluntary basis. All of the sites that we will look at have been included in the Strategic Housing Land Availability Assessment which has been publicised on a number of occasions. Inclusion on Part 1 of the register does not automatically lead to the site being granted PIP. To be granted PIP a site would first have to be the subject of statutory publicity where the merits of granting PIP would be formally assessed.
- 13 As the sites are in the SHLAA and have already been assessed for their suitability, to require further consultation on them is not necessary for inclusion on the Part 1 Register.

Permission In Principle (“PIP”)

- 14 PIP is an alternative way of granting what is tantamount to outline planning permission. The legislation allows for PIP to be granted for a number of types of land eg land allocated in a development plan, granted pursuant to an application but the only method set out in the legislation currently is by a planning authority entering it in part 2 of the Brownfield Register.
- 15 Once PIP is granted there is then a Technical Details Consent Stage. There is currently no detailed guidance or legislation in place for this second stage.
- 16 There are certain types of site that may not be covered by a PIP such as sites subject to a Habitats Assessment. Any sites that are covered by these are highly unlikely to be included on the Part 1 register in any event.
- 17 PIP can be granted on site subject to the following procedures:
- That publicity is carried out on the proposal before PIP may be granted.
 - That Parish Councils are consulted
 - The County Council is consulted

- 18** In determining whether to grant PIP the policies in the Framework and the Local plan can be taken into account. If PIP is granted by entering the land into part 2 of the Brownfield Register the consent will only grant permission for the overall land use and the amount of development permitted.
- 19** Once PIP is granted then the developer would need to apply for approval of Technical Details. There is no current clarity on exactly what that would mean and the scope of what those details would be but it is anticipated they will relate to highways, flooding, contamination and other matters of a similar nature. In making a decision on Technical Details a LPA would need to look at their Local Plan and the Policies in the Framework. Conditions cannot be attached to PIPs but can be added to the Technical Details consent.
- 20** There is no right of appeal if a LPA refuses to enter a site in Part 2 of the Register but there is for refusal of Technical Details Consent. There is no fee payable for entering land in part 2 of the Register ie granting PIP but there is to be a fee for Technical Details Consent.

Implications for Pendle

- 21** Attached at Appendix A is a list of all known sites that would be considered for entry into Part 1 of the Register. There are 38 sites of which 18 already have planning consent. Entry of these sites into Part 1 is not discretionary if they meet the criteria set out at 6 above. We propose to use an assessment matrix similar to the one we used for the SHLAA to assess the sites that do not have planning permission to determine if they should go onto Part 1.

IMPLICATIONS

Policy:	None
Financial:	Granting PIP would involve a similar amount of work to granting outline planning permission but there are no fees associated with it. Granting PIP on those sites without current planning permission would lead to a loss of income of £136,675.
Legal:	None
Risk Management:	None
Health and Safety:	None
Sustainability:	None
Community Safety:	None
Equality and Diversity:	None

Appendix: Initial list of Brownfield Sites