

North York Moors National Park Authority Planning Committee

14 December 2017

Publication of the Brownfield Land Register Regulations and Permission in Principle Order 2017

1. Purpose of the Report

- 1.1 To inform Members of the Regulations and Order relating to the Brownfield Land Register and Permission in Principle and to update them on their contents.
- 1.2 To present an update on the Authority's progress and preferred approach in relation to the legislation.

2. Background

2.1 On 15 and 16 April 2017 The Town and Country Planning (Permission in Principle) Order 2017 and The Town and Country Planning (Brownfield Land Register) Regulations 2017 came into force. Further information was issued in July 2017 providing guidance to support Local Authorities preparing and publishing their Brownfield Land Registers and to provide information about the new Permission in Principle consent route together with technical information on the data format of the information to be provided. This secondary legislation follows on from the Housing and Planning Act 2016.

2.2 The regulations require local authorities to prepare, maintain and publish a register of previously developed land (commonly known as "brownfield land") which is suitable for residential development. "Previously developed land" has the same meaning as in the National Planning Policy Framework:

'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 has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private 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 in the process of time.'

- 2.3 Local Authorities are expected to have compiled their registers in accordance with the open data requirements by 31 December 2017 and should review their registers on an annual basis. All National Park Authorities are required to meet this legislation.
- 2.4 Brownfield registers are intended to provide up-to-date, publicly available information on brownfield land that is suitable for housing. It has been introduced to improve the quality and consistency of data held by local planning authorities and provide certainty for developers and communities, encouraging investment in local areas. Brownfield registers should include all brownfield sites that are suitable for housing development irrespective of their planning status.

- 2.5 Local authorities are required to include a consistent set of information in their registers. The information to be included is set out in Schedule 2 of the Town and Country Planning (Brownfield Land Register) Regulations 2017. The register is to be kept in two Parts. Brownfield Land will be entered in **Part 1** where it meets all of the criteria set out below and Part 2 where the local planning authority considers that 'Permission in principle' should be granted.
- 2.6 The criteria for each parcel of land are as follows;
- At least 0.25 hectares or is capable of supporting 5 dwellings,
 - The land is suitable for residential development,
 - The land is available for residential development,
 - Residential development is achievable.
- 2.7 In order to assist Local Authorities the Government has set out the following general criteria which has been précised;
- Suitable – This means that it is allocated in a development plan document (e.g. a local plan), it already benefits from planning permission or PIP for residential development, or the Local Planning Authority considers it suitable for residential development having considered any adverse impact on the natural environment, the local built environment (including heritage assets), local amenity and any 'relevant' representations (i.e. from third parties);
 - Achievable – This means that in the Authority's opinion that the site will be developed in the next 15 years having regard to any information publically available and any relevant representations received; and
 - Available – This means that either all the owners of the site, or the developer in control of the land have expressed an intention to develop (or sell, in the case of an owner the site within the 21 days before the entry date on the register, or the Local Planning Authority considers that there are no ownership or other legal matters that might prevent residential development (again, based on publically available information and any relevant representations).
- 2.8 The local planning authority may also choose to include sites smaller than 0.25 hectares and not capable of supporting at least 5 dwellings on Part 1 of the register.
- 2.9 **Part 1** of the brownfield register is to be a comprehensive list of all brownfield sites in a local authority area that are suitable for housing, irrespective of their planning status. It is worth noting that putting a site on Part 1 of the register does not mean that it will automatically be granted 'Permission in principle'.
- 2.10 If the authority considers that 'Permission in principle' (PIP) should be granted for a site the local authority is required to enter that site on **Part 2** of the register. Part 2 is therefore a subset of Part 1 and should include only those sites for which permission in principle has been granted. The regulations set out the requirements for publicity and consultation where an authority proposes to enter sites on Part 2 of the register.
- 'Permission in principle' will agree the fundamental principles of development (use, location, amount of development) for the brownfield site giving developers/applicants more certainty. A developer cannot however proceed with development until they have also obtained technical details consent (TDC). No fee is payable for PIP although a fee will be payable for TDC. Following PIP the developer has 5 years to seek TDC to obtain full approval. PIP can only be granted for housing led development, but could include ancillary commercial, office and community uses. It can also include changes of use of buildings as long as it is housing led.

3. Key Points

- 3.1 The purpose of the legislation to clearly more focussed on large urban local planning authorities where there are large previously developed sites which may be detracting from the appearance of an urban area and where there is a perception that the redevelopment of them for much needed new housing is being stifled by the planning process. This legislation is therefore intended to boost house building and give developers more certainty in relation to strategic investments and build programs primarily in areas where large volumes of housing stock are required. Housing priorities are not the same within the National Park and there are unlikely to be large numbers of brownfield sites but the legislation is applicable to National Park Authorities and must therefore be complied with by the end of December. This report focuses on elements of the legislation that are of most relevance to the North York Moors National Park and a draft list of sites to be included on the register is set out in Section 4 below.
- 3.2 The Regulations in relation to **Part 1** for preparing, maintaining and publishing a register are a legal requirement and must therefore be complied with by the specified date i.e. 31st December 2017. Officers are well placed to comply with this deadline and the draft register, the supporting information and the draft wording for the web page are now well advanced and should be ready for publication on or before the deadline. Officers have focussed on the sites above 0.25ha only and on sites that can accommodate more than 5 dwellings within the built up areas of settlements. Only three sites have been identified. The search for suitable sites was also the subject of the recent 'Current Thinking' consultation exercise and no sites were forthcoming. Two of the sites identified by officers have previously obtained planning consent for housing which have now lapsed and the remaining site is a former school site for which there is no relevant planning consent. The land owners have been advised of the proposed inclusion on the register and no objections have been received.
- 3.3 With regards to **Part 2** of the required register for those sites with 'Permission in principle' there is no statutory requirement to consider whether or not to move a site to Part 2. This process is akin to allocating housing sites in the Local Plan and it is unlikely in the new Local Plan that this housing policy approach will be pursued. It would seem inappropriate therefore to do so by means of the Permission in principle process in Part 2. In addition Officers are concerned that by granting a PIP for sites within a National Park this may reduce the control that the Authority may have on the appearance and design of the development which may harm the special qualities of the National Park settlements. Overall given that there are very few brownfield sites and even less that are above the 0.25 hectares threshold officers consider that this Authority would not have any entries on Part 2 of the Register in at least the first year of its preparation, but this will be reviewed on an annual basis.

4. Sites to be entered onto Draft Register

- 4.1 The following sites are proposed for entry on to Part 1 of the register and maps of the sites are included in Appendix 1;
1. BR-001- Swainby Primary School, (no relevant planning history)
 2. BR-002 – Former British Legion Club, Hinderwell, (previous planning consent for residential development, 8 dwellings)
 3. BR-003 - Former NYCC Depot, West Ayton (previous outline planning consent for residential development)

5. **Conclusions**

- 5.1 Officers recognise that brownfield land has an important role to play in meeting the country's needs for new homes and that publicly available information on the registers will provide up to date information for developers. Officers have identified a small number of sites to include on the Authority's register and work is in hand to publish the register by the end of the year as required. Care has been taken to only include those sites on Part 1 of the register that meet the specified criteria and that will align with the housing policies in the emerging Local Plan which is likely to include a specific policy to encourage the sensitive redevelopment of previously developed land.

6 **Financial and Staffing Implications**

- 6.1 The new burdens grant payment has been paid to help to fund the work required by the setting up and maintenance of the Register. £30,000 is payable over the four years from 2016/17. Money for two years 2016/17 and 2017/18 has been paid and is being held in the Planning Policy Incomes budget.

7. **Contribution to National Park Management Plan**

- 7.1 The Authority's planning policy and development management functions contribute directly to achieving many of the policies and aspirations in the Management Plan. Providing publicly available information on brownfield land that is suitable for housing will assist in the provision of a housing land supply which will increase the future availability of affordable housing helping to deliver the objectives of the Management Plan.

8. **Legal Implications**

- 8.1 None.

9. **Recommendation**

- 9.1 That Members note the contents of this report and agree that the list of sites in Section 4 of this report is included on Part 1 only of the Authority's Brownfield Land Register on or prior to 31 December 2017.

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Plans showing the sites to be included in the Brownfield Register

Swainby Primary School



North York Moors National
Park Authority
The Old Vicarage
Bondgate
Helmsley YO62 5BP
01439 772700

Local Plan

Printed: 04 December 2017

Scale: 1:2500



Former British Legion Club, Hinderwell



North York Moors National
Park Authority
The Old Vicarage
Bondgate
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Local Plan

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