

Cabinet 19 December 2017	 TOWER HAMLETS
Report of: Ann Sutcliffe, Acting Corporate Director, Place	Classification: Unrestricted
Brownfield Land Register	

Lead Member	Councillor Rachel Blake Cabinet Member for Strategic Development and Waste (+ Air Quality)
Originating Officer(s)	Owen Whalley, Divisional Director, Planning and Building Control Umbreen Qureshi- Technical Support Manager
Wards affected	All wards
Key Decision?	No
Community Plan Theme	A Great Place to Live

Executive Summary

This report provides details about the Borough's approach to the formation of a Brownfield Land Register (BLR). The development of the BLR is a statutory requirement and must be produced by 31st December 2017. The BLR is prepared in accordance with the guidance laid out in the Town and Country Planning (Brownfield Land Register) Regulations 2017.

The Brownfield Register will be a two-part register. Part 1 must list all land within the Borough of an area at least 0.25 hectares or land that has the capacity to deliver 5 or more dwellings. This is largely in-line with the criteria used to survey land for the Borough's Strategic Housing Land Availability Assessment (SHLAA). The same criteria define available/developable or capable of development land.

The Council has identified 26 entries for inclusion in part 1 of the register. All sites identified for entry in part 1 are already in the public domain. Part 2 of the register will be a sub-set of part 1. Due to the need for detailed assessment of sites, there are currently no entries in part 2 of the register. Part 2 entries when made, will benefit from Permission in Principle (PiP).

Recommendations:

The Mayor in Cabinet is recommended to:

1. Approve the publication of London Borough of Tower Hamlets Brownfield Land Register.

1. REASONS FOR THE DECISIONS

- 1.1 The requirement to publish a Brownfield Land Register is a new statutory function arising from the Town & Country Planning (Brownfield Land Register) Regulations 2017. The register must be in place by 31st December 2017.

2. ALTERNATIVE OPTIONS

- 2.1 This is a new regulatory duty placed on Local Authorities and so in this instance there are no alternative options.

3. DETAILS OF REPORT

- 3.1 Brownfield land registers will provide up-to-date and consistent information on sites that local authorities consider to be appropriate for residential development having regard to the criteria set out in regulation 4 of the Town and Country Planning (Brownfield Land Register) Regulations 2017 (see 3.4 below). Registers will be in two parts, Part 1 will comprise all brownfield sites and Part 2 those sites granted permission in principle. Local planning authorities can trigger a grant of permission in principle for residential development of sites listed in their registers, where they follow the required procedures.
- 3.2 The BLR will be a public register open to all. The Government aims to encourage more SME developers/investors to enter the housebuilding market. This, it is hoped, will be assisted by councils having a list of identified sites ready for development. It is proposed the success of the register will be monitored through the PS1/PS2 quarterly returns.
- 3.3 The definition of previously developed (brownfield) land has the same meaning as land of that description in Annex 2 of the National Planning Policy Framework i.e. *Land which is or was occupied by a permanent structure, including the curtilage of the developed and (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*

3.4 The criteria for entry into the register is as follows:

- (a) Land that has an area of at least 0.25 hectares or is capable of supporting at least 5 dwellings;
- (b) The land is suitable for residential development
- (c) The land is available for residential development; and
- (d) Residential development of land is achievable

3.5 The definition of “suitable”, “available” and “achievable” land has been provided in legislation and has the meaning as follows:

Available – meaning the site should either be deliverable or developable. Sites that are deliverable should be available and offer a suitable location for development now and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable.

Sites that are developable – are those that are likely to come forward later on (e.g. between six and ten years). They should be in a suitable location for housing development and there should be a reasonable prospect the site will be available and that it could be viably developed at the point envisaged. As part of the assessment of availability, some high-level consideration must be given to site viability.

Capable of supporting five or more dwellings or more than 0.25 hectares – in line with advice provided by DCLG consider sites capable of accommodating five or more dwellings or those that exceed 0.25 hectares in size.

Capable of development – these include consideration of whether the identified sites are suitable for residential use and free from any constraints that cannot be mitigated. Particular regard must be given to key elements of the NPPF including:

- (a) Whether any specific policies within the NPPF indicate that development should be restricted;
- (b) The location of the site and whether it represents a sustainable opportunity for residential development having regard to the ability to access the site by non-car modes of transport;
- (c) The likely amenity of future occupants and any potential conflict with other adjoining or nearby uses for example through excessive noise;
- (d) Whether the loss of any existing use would be likely to have a harmful effect (e.g. loss of a community facility or employment opportunity, impact on the vitality and viability of a town centre);
- (e) Any particular site-specific considerations that could impact on bringing forward an alternative residential use on the site (e.g. excessive contamination due to a previous use);
- (f) Flooding and whether the site would be suitable for residential use in light of the available information on potential flood risk;
- (g) Potential impact on the natural environment including whether the site is of high environmental value and/or development for residential use

- would be likely to have a harmful impact on biodiversity and ecology that cannot be mitigated; and
- (h) Whether the development of the site for residential use would have a harmful effect on the historic environment that cannot be mitigated

Methodology

- 3.6 The Council has identified sites that meet the above criteria by assessment of the following:
- I. Sites identified in the recently completed GLA Strategic Housing Land Availability Assessment (SHLAA)
 - II. Sites with active or lapsed planning permissions for development of 5 dwellings or more within the current Local Plan period (the principle of development on these sites has been established)
 - III. Council-owned assets suitable for delivery of dwellings
 - IV. Sites identified through the review of Council Tax/ Non-Domestic Rates records providing occupancy data
 - V. GIS, aerial photography and ground surveys
 - VI. Allocated sites in local plan where applicable
 - VII. Sites coming forward through a call for sites exercise
- 3.7 Once a site has been identified as meeting the criteria by assessment against the GLA's density matrix, it will be entered into part 1 of the register. The site will remain there until the register is reviewed. If a site fails to pass this, the site is excluded from entry on to the register. This is due to the identified site constraints.
- 3.8 The criteria used for assessing suitability of a site for inclusion in the BLR can include existing residential homes. Whilst no further development plans, other than those already in the public domain, will be made without following due process and consultation, the criteria obliges the Council to include these sites in the register.
- 3.9 Part 2 of the register will be a sub-set of sites identified in Part 1. If a site is not taken forward to part 2, the register must state why the site cannot be entered. The register is designed to give clarity by identifying why a site is not suitable for development.
- 3.10 Sites identified for inclusion in part 2 will also go through a mandatory consultation process. The Mayor of London will also be consulted on those sites that fall within the GLA referral criteria.
- 3.11 Sites that are confirmed for entry into Part 2 will benefit from 'Permission in Principle' i.e. the principle of residential development on the site will be approved. Permission in principle will need to be followed up with a "Technical Details" application to be determined through the DM process, if decision to develop is made.

- 3.12 The format the register must be kept is in accordance with the prescribed format as described in schedule 2 of the regulations. It is a mandatory requirement to publish the register in an open data format (at data.gov.uk) in the Infrastructure for Spatial information in Europe standards. The register must be updated on an annual basis.

Findings

- 3.13 The majority of the sites identified for entry in part 1 of the register have already been identified through our SHLAA. SHLAA data is not public. It is categorised into 5 phases (P1-P5). Sites within P1-P3 are considered deliverable within the next 5 years. Sites falling in P4-P5 are considered achievable over the next 15 years+ and have therefore been excluded.
- 3.14 The Council has assessed all site allocations from our Local Plan which have not commenced.
- 3.15 A call for sites exercise ran for 4 weeks with advertisements placed in HA magazine, 24 Housing, Estates weekly, Inside Housing, East London Advertiser, LGC, E Standard, Architects Journal, Community Care, Guardian Society & Property Week and use of LBTH social media
- 3.16 The exercise brought forward no sites.
- 3.17 Analysis of extant planning permission, current and outline planning permission identified 2 sites.
- 3.18 26 sites have been identified for entry into the register, 8 are part Council owned.
- 3.19 The total list of sites can be found in Appendix 1A and 1B. In addition to being available in the open data format, all sites will be available through the LBTH website as an interactive map based layer.

Future updates of the Register

- 3.20 The approach of the council has meant that a full review of the register will not be required annually but rather the register will be live and continually updated as and when sites come forward or require removal.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 This report seeks the approval of the Mayor in Cabinet to the publication of the Council's Brownfield Land Register, which will provide house builders with up-to-date and publicly available information on all large brownfield sites that are available for the development of housing within the borough.
- 4.2 The publication of the register by 31st December 2017 is a new statutory requirement. In conjunction with an assessment of the sites contained within the Council's Local Plan and previous planning applications, a four-week 'call

for sites' exercise was undertaken in order to obtain details for inclusion within the register (see paragraph 3.15). The costs of this exercise and the compilation and future maintenance of the register will be met from within existing revenue budgets.

- 4.3 The register includes both privately and publically owned sites, including those owned by the Council. The publication of the register might lead to approaches to the Council for developments to be undertaken on its land. If these arise they will be considered in accordance with usual Council processes, including the completion of appropriate financial assessments.

5. LEGAL COMMENTS

- 5.1 Regulation 3 of the Town and Country Planning (Brownfield Land Register) Regulations 2017 requires the Council as local planning authority (LPA) to prepare and publish its brownfield land register by 31 December 2017. The register will be in two parts.

- 5.2 Part 1 of the register will contain details on relevant sites that the LPA consider to be appropriate for residential development having regard to the criteria set out in regulation 4. That is, in relation to each parcel of land:

- (a) has an area of at least 0.25 hectares or is capable of supporting at least 5 dwellings;
- (b) the land is suitable for residential development;
- (c) the land is available for residential development, and
- (d) the residential development of the land is achievable.

Part 1 of the register will therefore include sites with extant full planning permission, outline planning permission and permission in principle as well as sites without planning permission provided they are suitable for residential development.

- 5.3 Part 2 of the register will contain those sites granted permission in principle. That is those sites in Part 1 that the Council has determined would be suitable for a grant of permission in principle for residential development. Prior to entering a site in Part 2, the Council must undertake the necessary requirements for publicity, notification and consultation as required by Regulation. Article 4 of the Town and Country Planning (Permission in Principle) Order 2017 grants permission in principle for the development of land that is entered in Part 2. Permission in principle will be granted for the provision of a number of dwellings falling within the range specified in the relevant entry in Part 2 and for any non-residential development described in the entry. New sites can be entered in Part 2 at any time providing the procedures for reviewing set out in Regulation have been satisfied. When the register is first published there will be no entries under Part2.
- 5.4 The register once published is to be kept open for public inspection at the principal office of the LPA or if kept electronically to be available for inspection

by the public on a website maintained by that authority for that purpose and be reviewed at least once a year.

- 5.5 All functions of an authority are executive functions unless specified as not in either the Local Government Act 2000 Act or the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).
- 5.6 Some planning functions cannot be the responsibility of the Executive, but authority to publish the register is not a specified function and is therefore an Executive decision.
- 5.7 Making an entry into Part 2 of the register is a specified function (Schedule 1, of the Local Authorities (Functions and Responsibilities) Regulations 2000) and is a non-executive function (i.e a function of full council not the Executive) – or such other committee or person duly authorised.

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1 The report does not identify any equalities or diversities issues. It contributes to the achievement of One Tower Hamlets by provision of a tool to potentially allow the development of housing to come forward which ultimately assists all in the Borough.

7. BEST VALUE (BV) IMPLICATIONS

- 7.1 The production of the Brownfield Land Register is a statutory requirement
- 7.2 The proposals set out in this document align with the Council's Best Value Duty and have been formed with consideration of the Best Value Strategy and Action Plan.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 8.1 Any development coming forward from sites identified in the register will enter the development management process. The due process will consider all such matters relating to the sustainability.

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 There are no risk implications or a need to mitigate risk. The Brownfield register does not list sites that are not already in the public domain.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 10.1 The Brownfield Register will have no impact on crime and disorder. Any development proposals coming forward through the register will be assessed through the Development Management process. The process ensures new development does not increase the potential for crime.

11. SAFEGUARDING IMPLICATIONS

11.1 There are no safeguarding implications.

Linked Reports, Appendices and Background Documents

Linked Report

NONE

Appendices

Appendix 1A: List of sites to be included in Brownfield Land Register

Appendix 1B: Maps identifying sites to be included in Brownfield Land Register

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

NONE.

Officer contact details for documents: N/A