

**Manchester City Council
Report for Resolution**

Report to: Executive – 29 June 2016
Subject: Brownfield Sites Land Register
Report of: Chief Executive

Summary

The Housing and Planning Act 2016, which recently received Royal Assent, provides the legislative framework for the introduction of land registers and planning “permission in principle”. This report highlights the implications of these elements of the Act for Manchester and sets out a proposed policy framework for determining which sites should be included on the pilot register which is being developed with other Greater Manchester authorities and which is due to be published at the end of June. The report stresses the importance of the Council being able to continue to promote an appropriate balance of residential, commercial and other uses across the city and the ability to exercise appropriate control on the type and quality of residential development proposals.

Recommendations

Executive is recommended:

1. To note the potential implications of the provisions of the Housing and Planning Act 2016 for the Council’s established approach to delivering balanced growth.
 2. To approve the proposed policy framework for determining which sites to include on the brownfield register set out in section 3 of this report.
 3. To approve the governance arrangements proposed for maintaining the statutory brownfield register set out at section 4 of this report.
 4. To approve the publication of the brownfield register pilot in line with the proposed policy framework.
-

Wards Affected: All

Manchester Strategy outcomes	Summary of the contribution to the strategy
A thriving and sustainable city: supporting a diverse and distinctive economy that creates jobs and opportunities	Providing a high quality housing offer is essential to supporting the creation of new jobs and opportunities.

A highly skilled city: world class and home grown talent sustaining the city's economic success	High quality residential areas help attract new talent to Manchester and encourages home grown talent to stay and sustain the city's economic success.
A progressive and equitable city: making a positive contribution by unlocking the potential of our communities	Providing high quality housing improves quality of life and well being which can contribute to unlocking potential.
A liveable and low carbon city: a destination of choice to live, visit, work	High quality development is essential to delivering a liveable and low carbon city
A connected city: world class infrastructure and connectivity to drive growth	Well-planned development can make the most of the connections within an area.

Full details are in the body of the report, along with any implications for

- Equal Opportunities Policy
- Risk Management
- Legal Considerations

Financial Consequences – Revenue

None

Financial Consequences – Capital

Manchester City Council has received a one off payment of £10,000 for taking part in the Brownfield Register Pilot

Contact Officers:

Name: Eddie Smith
Position: Director of Strategic Development
Telephone: 0161 234 3030
E-mail: e.smith@manchester.gov.uk

Name: Richard Elliott
Position: Head of Policy Partnerships and Research
Telephone: 0161 219 6494
E-mail: r.elliott@mmanchester.gov.uk

Background documents (available for public inspection):

The following documents disclose important facts on which the report is based and have been relied upon in preparing the report. Copies of the background documents

are available up to 4 years after the date of the meeting. If you would like a copy please contact one of the contact officers above.

Housing and Planning Act 2016

Policy Fact Sheet: Brownfield Register, DCLG, The Housing and Planning Bill

Policy Fact Sheet: Permission in Principle, DCLG, The Housing and Planning Bill

1.0 Background – The Greater Manchester and Manchester Context

- 1.1 The Greater Manchester Strategy and the recently approved Our Manchester Strategy both set out an ambitious vision for the future of the city and the wider city region. The delivery of these ambitions and the wider Northern Powerhouse agenda will, amongst other factors, crucially depend on a land use and investment framework that supports future growth. In this context ensuring a strategic approach to planning across the city region will be critical to the ability to manage our land supply in the most effective way by ensuring that appropriate sites are provided for housing, employment and other uses. If we are to deliver the required outputs in terms of homes and jobs this strategic planning framework will need to be accompanied by an investment framework that will ensure appropriate financial capacity is available to ensure that appropriate residential and commercial sites are brought forward in a timely manner for development.
- 1.2 Work is therefore currently underway to develop a Greater Manchester Spatial Framework which will identify the scale of planned growth and its distribution across Greater Manchester. In order to complement the spatial plan and to ensure that appropriate housing can come forward for development a £300m Housing Investment Fund has been put in place through the Devolution Agreement. Proposals are also being explored to increase access to other resources to remediate land, support infrastructure provision and the development of value capture models. Simplified compulsory purchase order powers which are only currently available to the HCA are also set to be vested in Greater Manchester. The Greater Manchester Spatial Framework will also provide the spatial dimension for housing development across the whole conurbation to ensure all localities play a role in delivering new homes to support key economic objectives.
- 1.3 Manchester's approach to supporting housing growth is set out in the recently approved Residential Growth Strategy. This sets out the range of measures that are required to deliver growth. The strategy identifies that the city has a good pipeline of new housing schemes for the next few years which will increase the levels of house building. We anticipate that over the next decade a minimum of 25,000 homes need to be built across the City.
- 1.4 This will include houses in all parts of the City and apartments in and around the city centre. However, much of the land that could be used for housing in the medium to long term needs a lot of work to prepare it for development. This includes putting together larger sites that are currently in fragmented ownership, remediating old industrial land and creating the necessary infrastructure such as schools to support new homes. Our ability to develop a significant number of homes beyond this timescale will be constrained by limited land supply and competing demand for sites from economic uses as well as schools and other services needed to meet the needs of a growing population.

- 1.5 It is in this local context that the Government's proposals to introduce Pilot Brownfield Land Registers need to be considered. The remainder of the report describes the key principles of the Brownfield Land Register approach and suggests a proposed policy framework to guide decisions as to which sites in the city should be included.

2.0 Pilot Brownfield Land Register Process

- 2.1 Since 2010 successive Governments have made a number of changes to national planning guidance and regulations as they affect housing delivery. Governments have contended that the planning system has needed reform if the pace of housing delivery is to be accelerated.
- 2.2 The Housing and Planning Bill which received Royal Assent on the 12 May 2016 introduces the latest set of such changes and introduces delegated powers for the Secretary of State for Communities and Local Government to require local authorities to maintain a publicly available register of land suitable for housing led development.
- 2.2 The registers will also be utilised to help to measure progress against the Government's commitment of having planning permission or permission in principle in place on 90% of suitable brownfield land by 2020, with 2017 being the first baseline year.
- 2.3 Secondary legislation and guidance on statutory registers will be introduced shortly. This will be informed by feedback received from pilot authorities and the responses to a recent technical consultation (A joint response on behalf of all Greater Manchester local authorities was submitted by GMCA).
- 2.4 In advance of the Housing and Planning Bill receiving royal assent DCLG established a brownfield registers pilot fund for local authorities to bid into. A total of £10,000 per authority was made available. Manchester and Wigan were automatically included in a first round of pilots and a subsequent bid from GMCA has led to all ten Greater Manchester authorities being included.
- 2.5 Alongside the introduction of Land registers the Housing and Planning Act has also introduced the concept of "permission in principle" into law. Permission in principle is a process for granting permission for the principles of a development such as type (e.g. housing) and scale (e.g. number of units). Full planning permission can be achieved at a later date through the approval of an application for technical details consent. Permission in principle can be granted through allocations in local plans, through registers or through applications to the local planning authority. Brownfield registers will be a vehicle for granting "permission in principle" for new homes on suitable brownfield sites.
- 2.6 The draft brownfield register needs to be completed by the end of June. Pilot authorities will not be expected to grant permission in principle as part of this project. The project is instead focused on publishing their list of sites and

understanding any policy or technical issues with doing so. More details of the way in which the Pilot and the permission in principle process are intended to operate are included at Appendix 1 to this report.

3. Discussion and Proposed Manchester City Council Response

- 3.1 Manchester City Council has consistently taken steps to broaden and deepen the City's housing offer so as to support the sustainable expansion of our economy, ensuring that a lack of supply of homes for working households is not a constraint on growth. We have an established track record of promoting residential development in tandem with securing the jobs needed to attract and retain working households in the City. If, however, the city's economy is to be able to continue to grow there needs to be an appropriate balance between residential development and use of land for commercial, educational and other purposes.
- 3.2 Whilst the Council fully supports the objective of bringing more housing forward on brownfield sites, there is a concern that unless carefully managed the introduction of the new government policies could have the effect of limiting the Council's ability to ensure the quality and mix of new housing is appropriate to local needs. Development sites in Manchester are overwhelmingly brownfield, and it is essential that the Council is able to manage development across the large parts of the City where brownfield sites are in the majority.
- 3.3 In Manchester, requiring a brownfield register and aiming for 90% of sites to have planning permission by 2020 will not, on its own, ensure more housing is delivered. As the Council's Residential Growth Strategy makes clear there are often a number of reasons why brownfield development does not come forward – issues such as contamination, derelict structures, infrastructure costs and other constraints which often render a development unviable. There are currently a significant number of unimplemented planning permissions for housing as well as development frameworks in place with housing allocations that have not yet been taken up. Officers are aware of no compelling evidence that the planning process as currently operated in Manchester is a barrier to sustainable development in general or the development of new housing in particular, and it is clearly important that the development of a brownfield land register should not undermine the ability to continue to deliver appropriate development across the city.

Policy Framework

- 3.4 The Council has developed an approach to development in the City that delivers a high volume of development but also ensures that it is of a high quality with an appropriate mix of uses. This approach includes the use of development frameworks and masterplans to establish key development outcomes, which are then delivered through planning applications. It is essential to the on-going and sustainable growth of the City that this approach can be maintained. The approach to the Council's brownfield register, and in particular permission in principle, has been set to reflect this requirement.

- 3.5 It is therefore proposed that all brownfield sites likely to be developed for housing within 10 years (from the point of assessment) will be considered suitable for inclusion on the Brownfield Register Pilot, with the exception of:-
- Major mixed use sites including those that will be brought forward via development frameworks and approved separately by Executive.
 - Large residential-led sites for which innovative and high quality urban design will be needed to achieve the Council's regeneration aims.
 - Other design sensitive sites where density, mix of use and quality of design is fundamental to achieving successful development outcomes. This would include all sites within:-
 - the extended City Centre (covered by City Centre and City Centre fringe in the Local Plan)
 - District Centres
 - 800m of a Metrolink stop
- 3.6 The key principle behind this approach is maintaining the ability to manage development effectively. For many of the City's developments, the mix of uses and quality of design are fundamental to the delivery of successful places. Permission in principle may preclude effective management of these matters, currently achieved through conventional planning applications. In particular, permission in principle without sufficient management of these issues can result in a land value that makes the most sustainable development unviable. In the case of mixed use developments, which will deliver a significant proportion of the economic activity to drive the City Region economy, permission in principle for housing may make it difficult to negotiate an appropriate balance of uses. For sites which demand high quality urban design, permission in principle may have the effect of pricing out the necessary quality and the technical details consent process may not allow issues to be considered as fully as the Council would like.
- 3.7 Government guidance to date suggests that inappropriate development can be refused at the technical details consent stage. However, this is not the outcome that the Council would seek, preferring an approach which actively promotes the delivery of appropriate development.
- 3.8 The proposed approach takes account of information provided to Members of Parliament in the Policy Fact Sheet: Brownfield Register, which explains that, in exceptional circumstances, sites on local registers may not be suitable for permission in principle where the local planning authority considers that development decisions should be taken through the planning application process.
- 3.9 Once the precise operation of permission in principle and technical details consent has been finalised, the Council will, if appropriate, be able to revisit its preferred criteria for including sites on the register.

4.0 Governance Arrangements

- 4.1 It is proposed that in future the Residential Growth Board, an officer level Board should oversee the day to day operation of the brownfield register. Amendments would be reported to the Manchester Place Board and Executive for approval as required and at least on an annual basis.

5.0 Contributing to the Manchester Strategy

(a) A thriving and sustainable city

- 5.1 Providing a high quality housing offer is essential to supporting the creation of new jobs and opportunities.

(b) A highly skilled city

- 5.2 High quality residential areas help attract new talent to Manchester and encourage home grown talent to stay and sustain the City's economic success.

(c) A progressive and equitable city

- 5.3 Providing high quality housing improves quality of life and well being which can contribute to unlocking potential.

(d) A liveable and low carbon city

- 5.4 High quality development is essential to delivering a liveable and low carbon city

(e) A connected city

- 5.5 Well-planned development can make the most of the connections within an area.

6.0 Key Policies and Considerations

(a) Equal Opportunities

- 6.1 Ensuring the Council is best able to manage development in the City assists the Council in providing equal opportunities

(b) Risk Management

- 6.2 The approach outlined above aims to ensure the Council is best able to manage the decision making process when granting planning permission.

(c) Legal Considerations

- 6.3 It will soon become a statutory requirement for the Council to publish and maintain a brownfield land register.

APPENDIX 1

Operation of the Brownfield Land Register Pilot and Permission in Principle

The Brownfield Register Pilot

1.1 The pilot involves compiling and publishing a pilot brownfield register by the end of June 2016. It does not require sites to be given permission in principle although we are asked to consider the suitability of sites for permission in principle and raise any issues with such a designation. When the statutory requirement for preparing brownfield registers comes into force we will be expected 'to take a positive and proactive approach' to granting permission in principle to the majority, if not all, sites in the register. At the pilot stage, which sites are included on the brownfield register is at the LA's discretion, however once the register becomes statutory the requirements may be more prescriptive. While current indications are that the identification of sites to be granted permission in principle will remain at the discretion of the LA the Government has made it clear that its expectation is that the majority of sites on the register will have permission in principle by 2020.

1.2 Local Authorities taking part in the pilot have been given guidance on how to develop a brownfield register. The guidance sets out the following stages:

Stage 1: Identify provisional sites

1.3 All provisional brownfield sites should meet the definition on 'previously developed land' in the National Planning Policy Framework (NPPF). In brief, previously developed land is land which is or was occupied by a permanent structure or infrastructure. However exclusions include:-

- restored extraction or waste sites
- private residential gardens, parks, recreation grounds and allotments
- land that has blended into the landscape in the process of time (Greenfield sites).

Stage 2: Assessing site suitability

1.4 The DCLG criteria for inclusion of a brownfield site on the register are:-

- sites must support 5 or more dwellings (or be over 0.25 hectares)
- it should be deliverable or developable (as defined in NPPF)
- it should be capable of development (i.e. free from constraints that cannot be mitigated)

Stage 3 - Compiling a Pilot Register

1.5 The format of the pilot register will be consistent across all Local Authorities and the national standard for data to be included in statutory registers will be established as part of the pilot. It will be possible to provide links to relevant background information, e.g. hyperlink to planning portal, Environmental Assessment flood risk plans etc.

- 1.6 Consultation on sites to be included on the register is at the pilot authority's discretion.

Stage 4 – Publishing a Pilot Register

- 1.7 The pilot register should be published on each individual local authority's website by the end of June 2016 and, once statutory, will need to be updated at least annually.
- 1.8 There is no requirement to consult during the pilot phase but it is expected that some form of consultation on the register will be required once it becomes a statutory requirement.

2.0 Planning in Principle

- 2.1 Planning in principle is not part of the pilot, but will need to be considered for all sites in the statutory brownfield register. When secondary legislation is in place it will be possible to grant permission in principle to all or specified sites on the brownfield register.
- 2.2 The full details of the permission in principle process have not been set out, but the suggestion is that it will be similar to outline planning permission. Details for the permission in principle would include the type of development (i.e. housing or mixed use) and the number of units. It will be possible to attach conditions to permissions in principle which, along with other details, will be considered at the second stage of the process to gain full permission known as technical details consent. There are no firm details on this process at present. However, it is the Government's intention that the technical details consent will provide the opportunity to assess the detailed design, ensure appropriate mitigation of impacts and to secure contributions to essential infrastructure. It has been presented as being similar to reserved matters planning applications. Technical details consent should be assessed in the light of the permission in principle and local and national planning policy, and can be refused by the local planning authority if the proposed detail is unacceptable. Applicants can be charged a fee for the determination of technical details consent.
- 2.3 Consultation must take place before the permission in principle is granted. The level of consultation is yet to be determined but it is expected to be similar to that required for a local plan rather than the local consultation required for a planning application. One issue is that for an outline proposal, the applicant has to submit sufficient information to enable the local planning authority to determine suitability of development, scale and quantum, but this would not be the case with permission in principle.
- 2.4 Stages 1 and 2 of the pilot are very significant as they will result in a list of sites of which the expectation is that 90% will need to be granted planning permission or permission in principle by 2020. The Government has indicated that it is considering introducing policy based sanctions if this target is not achieved at some point in the future, including local authorities being unable to

- claim to have sufficient housing land (thereby losing a degree of local control over development).
- 2.5 Following the publication of the pilot register, additional sites can be added at any time. Sites can also be removed from the register, although justification may be required.
- 2.6 Although at this pilot stage there is no question of giving permission in principle to sites on the register, local planning authorities will be expected to take a positive and proactive approach to doing so once the registers and permission in principle process are statutorily confirmed. Government has indicated that it would generally expect sites on the brownfield register to be granted permission in principle where a conventional planning permission was not in place, unless there are clear reasons not to. Although guidance currently suggests that it is for local authorities to decide which sites on the brownfield register are granted permission in principle, it would appear likely that there will be some pressure to use this approach extensively.
- 2.7 Given the potential pressure on sites on the register to be given permission in principle and the uncertainty around how this process will work in practice, it is proposed that the Council takes a precautionary approach to inclusion of sites on the Brownfield Register Pilot. The following policy framework is proposed to assist in determining which sites to include.
- 2.8 Government may require the inclusion of sites on statutory brownfield registers according to prescriptive criteria, and this approach could preclude the use of the policy framework to manage the inclusion of sites on the register in the future. In this case, it is proposed that the proposed policy framework should remain in place to determine consideration of granting sites permission in principle.