

Manchester City Council Report for Resolution

Report to: Executive – 15 November 2017

Subject: Brownfield Land Register Update

Report of: Chief Executive

Summary

The Town and Country Planning (Brownfield Land Register) Regulations came into force in April 2017 and require each local planning authority to prepare and maintain a Brownfield Land Register and to publish their register by 31st December 2017. The register must comprise two parts. Part 1 is for brownfield sites suitable for residential development and Part 2 is for sites which have been granted (planning) permission in principle. This report provides an update on the implications for Manchester and proposes that the Brownfield Land Register be a sub set of the Strategic Housing Land Availability Assessment. It is recommended that no sites are proposed for permission in principle at this stage.

Recommendations

Executive is recommended:

1. to note the implications of the regulations for the Council's established approach to delivering sustainable high quality development;
 2. approve the proposed approach for determining which sites to include in parts 1 and 2 of Manchester City Council's Brownfield Land Register as set out in section 4 of this report;
 3. approve the governance arrangements proposed for maintaining the statutory brownfield land register set out at section 5 of this report including annual reporting to Executive on the Brownfield Land Register as part of the Residential Growth Advisory Panel Update;
 4. to delegate responsibility for approving the 2017 register and annual updates to the Strategic Director, Development and the Deputy Chief Executive (Growth and Neighbourhoods) in consultation with the Deputy Leader with portfolio responsibility for housing and the Executive Member for Environment and Skills; and
 5. approve the publication of Manchester's Brownfield Land Register by 31st December 2017.
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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 wellbeing 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 received a New Burdens payment £14,645 for 2016/17. DCLG have advised that local planning authorities will receive further grant payments for 2017/18, 2018/19 and 2019/20; the amount of funding from 2016/17 onwards will be kept under review. This funding can support delivery of the register.

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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.

Brownfield Land Register Pilot Executive Report – 29th June 2016

1.0 Introduction

- 1.1 In June 2016, Executive received a report on the Brownfield Land Register Pilot. The report explained that the Housing and Planning Act 2016 provided the legislative framework for the introduction of land registers and planning “permission in principle”. Brownfield Land registers were introduced to provide up-to-date and consistent information on sites that local authorities consider to be appropriate for residential development. Government invited a number of Local Authorities, including the ten Greater Manchester districts, to be pilots for the register. The report highlighted the implications for Manchester and set out a proposed policy framework for determining which sites should be included on the pilot register.
- 1.2 The Manchester pilot register was developed with other Greater Manchester authorities and the pilot register was published at the end of June 2016. Following the criteria agreed by Executive the pilot comprised 161 sites with capacity for 3851 dwellings.
- 1.3 The Town and Country Planning (Brownfield Land Register) Regulations came into force in April 2017 requiring local planning authorities to prepare, maintain and publish a brownfield land register by 31st December 2017. It must be updated at least annually. In July 2017, the Government also produced planning practice guidance on both brownfield land registers and permission in principle.

2.0 Background

- 2.1 At the pilot stage local planning authorities could use their discretion when deciding which sites to include on the register. Executive agreed in June 2016 that all brownfield sites likely to be developed for housing within 10 years would 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
- 2.2 This approach reflected the nature of the pilot, which allowed the Council to apply any criteria it felt were appropriate. The Council has less flexibility now that the criteria have been set out in the Town and Country Planning (Brownfield Land Register) Regulations.

- 2.3 The regulations state that local planning authorities, having regard for any adverse impact on the natural environment, the built environment (including in particular heritage assets) and local amenity, must include all brownfield sites within their area where:-
- the land has an area of at least 0.25 Ha or is capable of supporting at least 5 dwellings;
 - the land is suitable for residential development;
 - the land is available for residential development; and
 - residential development of the land is achievable.
- 2.4 It should be noted that 'achievable' in this case means that, in the opinion of the local planning authority, the development is likely to take place within 15 years of the entry date. This is a change from the pilot register which considered sites where housing was likely to come forward within 10 years.
- 2.5 The Council currently maintains a Strategic Housing Land Availability Assessment (SHLAA) which it publishes annually via the GMCA's MappingGM website. The SHLAA contains all sites within Manchester that the Council considers suitable for residential development and likely to come forward within 15 years. It includes brownfield and greenfield sites, with and without planning permission and is used as a tool for assessing the city's capacity for future residential development. It includes sites without planning permission that have been assessed as suitable for 10 dwellings or more and all sites, regardless of size, with planning permission. The criteria for inclusion of sites in the SHLAA means that all sites known to the Council that meet the criteria for inclusion in the Brownfield Land Register will also be included in the SHLAA. The Brownfield Land Register will, therefore, be a subset of the SHLAA.
- 2.6 The legislation requires the register to comprise 2 parts. The first is for sites that meet the criteria set out in 2.3 above. Part 2 is for sites that meet the above criteria and have been granted permission in principle. Permission in principle is a process for granting planning permission for the principles of a development and is limited in scope to location, land use and amount of development. After following the notification and consultation requirements set out in the regulations, the Council can grant permission in principle by including the site in part 2 of the register. Full planning permission can be achieved at a later date through the approval of an application for technical details consent.
- 2.7 During consultation on Brownfield Registers and Permission in Principle the Government made it clear that it expected 90% of suitable brownfield sites to have planning permission by 2020. This target has not been included in the final legislation but remains a commitment in DCLG's Single departmental plan: 2015 to 2020¹.

¹ <https://www.gov.uk/government/publications/dclg-single-departmental-plan-2015-to-2020>

3.0 Discussion and Proposed Manchester City Council Response

- 3.1 Compared with the pilot stage, the new brownfield regulations give local planning authorities less discretion over which sites to include on the Brownfield Land Register. It is the decision of the local authority, however, to decide whether land is suitable and available for residential development and whether it is achievable within 15 years.
- 3.2 Legally, the Council may conclude that sites should not be included because neither the relevant owner(s) nor developer has expressed an intention to sell or develop the land. It could also be that the Council is of the opinion that there are complex issues relating to the ownership of the land which have the potential to prevent residential development of the land taking place. Examples of complex issues could be fragmented ownership requiring complicated land assembly negotiations or other legal impediments such as the need to consider invoking CPO powers. A site will not be included in Manchester's SHLAA or the Brownfield Land Register if any of these complex issues apply to the extent that development in 15 years is unrealistic.
- 3.3 The mix of uses and quality of design of many of the city's developments are fundamental to the delivery of successful centres and neighbourhoods. Due to the limited scope of permission in principle, if granted, these matters cannot be as effectively managed as is currently achieved through conventional planning applications. In particular, permission in principle could result in a land value that makes the most sustainable and/or high quality development unviable. In the case of mixed use developments, which will deliver a significant proportion of the economic activity to drive the City Region's economy, permission in principle for housing may make it difficult to negotiate an appropriate balance of uses. It is most beneficial for developers to consider these issues as early as possible in the design process. It would not be as effective to wait until the technical details consent stage before critical design matters can be discussed. Whilst the Council could refuse technical detail consent if an application did not meet its quality standards, the result would be no development and would undermine the Council's wider aim to promote sustainable growth.

4.0 Manchester Approach

- 4.1 Following advice from the council's legal service, officers recommend that the Brownfield Land Register should be a subset of the SHLAA. It is proposed that all brownfield sites in the SHLAA be included on part 1 of the Brownfield Land Register. The only exception will be sites that are under construction and sites with planning permission for less than 5 dwellings.
- 4.2 The Brownfield Land register will therefore be developed in parallel with the annual SHLAA updates. The Residential Growth Advisory Panel are currently overseeing the annual review of the SHLAA and will also be responsible for the Brownfield Land Register. The fields in the register are set by Government and are listed in Appendix 1.

- 4.3 Due to the concerns described in 3.3, at this stage, officers are not recommending any sites are considered for permission in principle and therefore inclusion on part 2 of the Brownfield Land Register. It is recommended that this decision be reviewed if further guidance is released by Government.

5.0 Governance Arrangements and Recommendations

- 5.1 It is recommended that Executive agree the approach to the development of Manchester City Council's Brownfield Register as set out above to enable its publication by 31st December 2017. It is recommended that Executive delegate the approval of the 2017 register and annual updates to the Strategic Director, Development and the Deputy Chief Executive (Growth and Neighbourhoods) in consultation with the Deputy Leader with portfolio responsibility for housing and the Executive Member for Environment and Skills.
- 5.2 The Brownfield Land Register will be reviewed and updated (at least) annually as part of the update of the SHLAA and officers will report to Executive annually on the Brownfield Land Register as part of the Residential Growth Advisory Panel Update.

6.0 Contributing to the Manchester Strategy

(a) A thriving and sustainable city

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

(b) A highly skilled city

- 6.2 Provision of 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

- 6.3 Providing high quality housing improves quality of life and wellbeing which can contribute to unlocking potential.

(d) A liveable and low carbon city

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

(e) A connected city

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

7.0 Key Policies and Considerations

(a) Equal Opportunities

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

(b) Risk Management

- 7.2 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

- 7.3 The report has had regard to the Housing and Planning Act 2016 and the Town and Country Planning (Brownfield Land Register) Regulations 2017 and the Town and Country Planning (Permission in Principle) Order 2017.

Appendix 1

Information to be included in the Brownfield Land Register²

- the local authority's own reference for the land;
- the name and address of the land;
- a plan which identifies the land;
- the area of the land in hectares;
- the name of the local authority;
- the ownership status :-
 - "owned by a public authority",
 - "not owned by a public authority", or
 - "mixed ownership";
 - "unknown ownership"
- where the land is "deliverable" a note to that effect;
- the planning status of the land ie "permissioned" or "not permissioned"
- the date that such permission was granted
- whether the grant of permission is—
 - "full planning permission",
 - "outline planning permission",
 - "reserved matters approval",
 - "permission in principle",
 - "technical details consent",
 - "other";
- a description of any proposed housing development; or
- the minimum and maximum net number of dwellings, given as a range, which, in the authority's opinion, the land is capable of supporting;
- the minimum net number of dwellings which, in the authority's opinion, the land is capable of supporting;
- where the development includes non-housing development, the scale of any such development and the use to which it is to be put;
- the date that the land was first entered in the register; and
- where applicable, the date that information about the land was last updated in the register.

² The Town and Country Planning (Brownfield Land Register) Regulations 2017
SCHEDULE 2