



EAST STAFFORDSHIRE BOROUGH COUNCIL

REPORT COVER SHEET

Title of Report:	Part 2 Brownfield Site Register	To be marked with an 'X' by Democratic Services after report has been presented
Meeting of:	Corporate Management Team 20 th October 2020	X
	Leader and Deputy Leaders 26 th October 2020	X
	Leader's / Leader of the Opposition's Advisory Group / Independent Alliance Advisory Group 4 th & 5 th Nov 2020	X
	Cabinet 16 th November 2020	
	Scrutiny Audit and Value for Money Council Services Committee / Scrutiny Community Regeneration, Environment and Health and Well Being Committee	



Is this an Executive Decision:	[NO]	Is this a Key Decision:	[NO]
Is this in the Forward Plan:	[YES]	Is the Report Confidential: If so, please state relevant paragraph from Schedule 12A LGA 1972:	[NO] []

Essential Signatories:

ALL REPORTS MUST BE IN THE NAME OF A HEAD OF SERVICE

Monitoring Officer: **Angela Wakefield**

Date Signature

Chief Finance Officer: **Sal Khan**

Date Signature

EAST STAFFORDSHIRE BOROUGH COUNCIL

Report to Cabinet

Date: 16th November 2020

REPORT TITLE: Brownfield Site Register Part 2

PORTFOLIO: Planning

HEAD OF SERVICE: Sal Khan

CONTACT OFFICER: Naomi Perry Ext. No. x1611

WARD(S) AFFECTED: All

1. Purpose of the Report

- 1.1 The purpose of the report is to set out the requirements of the Town and Country Planning (Brownfield Land Register) Regulations 2017 which came into force on 16th April 2017, specifically 'part 2' of the register and conclude whether the Council should prepare such register at this time.

2. Executive Summary

- 2.1. There has been a requirement to publish a brownfield site register since 2017. Brownfield site registers include a list of potential deliverable brownfield sites and should be reviewed annually. Local Planning Authorities may choose to if they wish to enter sites in a 'part 2' register which in effect gives the site planning permission in principle. Whilst there are benefits to preparing a part 2 register, there are also cost and resource implications which are set out below.

3. Contribution to Corporate Priorities

- 3.1. This report is in line with Corporate Plan Target CR18 'Produce report and approach regarding Brownfield Register Part 2'.

4. Main Body of Report

- 4.1. Brownfield site registers are one of the proposals by the Government to promote increased housebuilding.
- 4.2. Regulation 3 of the Town and Country Planning (Brownfield Land Register) Regulations 2017 requires local planning authorities in England to prepare, maintain and publish registers of previously developed (brownfield) land. Brownfield sites that meet the relevant criteria must be entered in Part 1 of brownfield land registers. Sites entered in Part 2 of the brownfield land registers are granted permission in principle. Regulation 17 requires local planning authorities to review their registers at least once a year.
- 4.3. A register, in the form of an excel spreadsheet has been prepared alongside a document including maps identifying the location of each of the sites. This has been updated annually since 2017. The regulations require sites both with and without planning permission to be included on the register. As a result sites are removed from the register once they are built. Whilst this has been the case for the register, there are still a number of sites which have remained on the register since it was first prepared. This could demonstrate that developing brownfield sites is complex and timely and often not an attractive investment for developers. Separately, a number of planning permissions have been granted on brownfield sites since the Local Plan was adopted in 2015. In all cases the amount of S106 contributions have been reduced due to the viability of each site which in some cases has been linked to additional works such as ground remediation.
- 4.4. The benefit of entering land onto a Part 2 Brownfield Land Register is that the Council would be granting the relevant site 'Permission in Principle' for residential development in accordance with Section 14A of the Planning and Compulsory Purchase Act 2004 ("Brownfield Land Register"). This will give land owners and developers certainty in the planning process and in some cases allow funding to be secured. The details, e.g. appearance and layout of the development would then later need to be determined through the planning process. In effect Part 2 is akin to outline planning permission.
- 4.5. The fee for an outline planning application is £462 per 0.1 hectares. The 2019 part 1 register identified 45 sites, 16 of which didn't have planning permission and ranged in size from 0.1 hectares to 9.08. Should these sites be submitted as outline applications, based on site area alone the fees would be in the region of £123,169.
- 4.6. Before entering a site on to the Part 2 Register, it will be necessary to determine if the site is deliverable (Annex 2 of the National Planning Policy Framework). In determining site deliverability, some relevant costs may relate to paid consultation on site assessment work including land contamination studies, site viability work, site specific infrastructure provision as well as conducting investigations into site ownership and other land constraints. Whilst these potential surveys and studies would differ from site to site, a minimum cost based on discussions with the enterprise team who have experience of commissioning site specific studies and known costs linked to planning applications, is estimated at £20,000 per site for a small site (less than 1 hectare

site). This estimation is based on the following studies which would need to be carried as a minimum:

- Flood Risk Assessment: £2,000 - £2,500
- Illustrative Architectural work (designs): £1,000 - £2,000
- Ecological surveys: £2,000 - £3,000 as a minimum. Significantly more if protected species (bats/badgers/newts) are found on, or access the site
- Tree surveys: £1,000
- Ground Investigations: £1,500 - £3,000 for a basic investigation
- Asbestos survey of existing buildings: £1,000
- Professional and legal Fees: £3,000 - £5,000
- Viability Study: £2,000 - £3,500

- 4.7. Out of the 16 sites identified on the register which don't have permission, 11 are under 1 hectare. As set out later in the report the new burdens grant received from MHCLG would not cover these estimated costs or potential loss of planning fee.
- 4.8. As a result, adopting a Part 2 register will result in additional consultation and evidence base work and costs, such costs are usually attributed to the applicant. The required resources go above and beyond the financial commitments required for a Part 1 Register and go beyond the 'new burdens' grant provided to local planning authorities
- 4.9. That is not to say the process is not without benefit. Sites with permission in principle could result in bringing new investment and development into East Staffordshire. This is a positive thing as new development can lead to additional jobs and investment for the wider area.
- 4.10. A brief evaluation of other adjacent authorities and other authorities in Staffordshire has revealed that no others have progressed a part 2 register. The take up nationally has also been extremely low, demonstrating Councils are reluctant to go down this route.
- 4.11. An alternate route to 'Permission in Principle' can be obtained by granting permission in principle upon a valid planning application of small sites. In addition MHCLG recently announced their intention to allow the permission in principle for larger sites, through amended legislation.
- 4.12. In conclusion, having a Part 2 Brownfield Register does have some merits and therefore can be considered a good thing however the associated costs and additional work involved outweigh the long-term benefits of progressing a Part 2 Register.
- 4.13. Part 1 of the register will continue to be reviewed annually ensuring the Council meets its legal duty.

5. Financial Considerations

This section has been approved by the following member of the Financial Management Unit:]

- 5.1. The main financial issues arising from this Report are as follows:
- 5.2. A Section 31 (New Burdens) Brownfield Land Registers and Permission in Principle Grant has been received from MHCLG since 2016. This grant is unringfenced but has reduced each year as set out below:
- 5.2.1. 2016/17 - £14,645
 5.2.2. 2017/18 - £5,485
 5.2.3. 2018/19 - £3,687
 5.2.4. 2019/20 - £2,446
- 5.3. Based on the details provided in paragraph 4.6 the projected cost of preparing a part 2 Register is :

Sites without Planning Permission	Indicative average Price	All sites
11 sites less than 1 hectare	£20,000	£220,000
Additional allowance for 5 sites greater than 1 hectare	£20,000 - £40,000 ¹	£120,000
Estimated Total		£340,000

¹ based on doubling/trebling of size

- 5.4 The loss of fees for outline planning permission has been estimated at £123,169.
- 5.5.1 MHCLG haven't confirmed the grant for subsequent year payments based however as part of the current Planning White Paper a full regulatory review is anticipated towards the end of the year which will also include this grant. Therefore it is not known how much additional monies, if any, will be received by this Council.

6. Risk Assessment and Management

- 6.1. The main risks to this Report and the Council achieving its objectives are as follows:
- 6.2. **Positive** (Opportunities/Benefits):
- 6.2.1. Publishing the brownfield site register will assist potential applicants early in the planning process in ensuring clear information about brownfield sites.

6.3. **Negative** (Threats):

6.3.1. None. There is no mandatory requirement to prepare a part 2 register.

6.4. The risks do not need to be entered in the Risk Register. Any financial implications to mitigate against these risks are considered above.

7. **Legal Considerations**

This section has been approved by the following member of the Legal Team: []

7.1. There are no significant legal issues arising from this Report.

8. **Equalities and Health**

8.1. **Equality impacts:** The subject of this Report is not a policy, strategy, function or service that is new or being revised. An equality and health impact assessment is not required.

8.2. **Health impacts:** The outcome of the health screening question does not require a full Health Impact Assessment to be completed. An equality and health impact assessment is not required.

Is it a Health or Equality action?	Issue/impact identified	Recommendation/Action required	Lead officer and timescale	Resource allocation
No				

9. **Human Rights**

9.1.1. There are no Human Rights issues arising from this Report

10. **Sustainability** (including climate change and change adaptation measures)

10.1. Does the proposal result in an overall positive effect in terms of sustainability (including climate change and change adaptation measures)

10.2. Please detail any positive/negative aspects:

10.2.1. Positive (Opportunities/Benefits) Reusing brownfield sites are considered sustainable in planning terms

10.2.2. Negative (threats) Not preparing a part 2 does not mean that such sites cannot be developed

11. **Recommendations**

11.1.1. The Brownfield Register Part 1 continues to be updated on an annual basis without identifying any sites under part 2

12. **Background Papers**

- 12.1. Regulations
- 12.2. Strategic Housing Land Availability Assessment
- 12.3. East Staffordshire Local Plan 2012 – 2031
- 12.4. National Planning Policy Framework (NPPF)
- 12.5. National Planning Practice Guidance
- 12.6. 2019 Brownfield site register