

2017

BROWNFIELD LAND REGISTER – A GUIDE

INTRODUCTION

The Town and Council Planning (Brownfield Land Register) Regulations 2017 places a duty on the Council as the Local Planning Authority to prepare, maintain and publish a register of previously developed land (brownfield land) which is suitable for residential development. This came into effect on the 16th April 2017.

The Register must be kept in two parts and must be reviewed every year.

WHAT IS BROWNFIELD LAND?

The definition of brownfield land is set out in Government guidance and it says that it is 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.

Private residential gardens, parks, recreation grounds and allotments; and

Previously-developed where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.

PART 1 OF THE BROWNFIELD LAND REGISTER

For sites to go onto Part 1 of the Brownfield Land Register, they must meet the definition of brownfield land set out above and;

Have an area of at least 0.25 hectares or be capable of supporting at least 5 dwellings; and

Be suitable for residential development.

Be available for residential development

Be achievable

WHAT DOES THAT MEAN?

Suitable for residential development is not explained in the legislation but it would normally mean that there was no national or local policy reason or obvious material planning reason to the development of the site.

Available for residential development means that the relevant owner/developer has expressed an intention to sell or develop the land and at a date not more than 21 days before the entry date on the register there is no evidence indicating a change to that intention.

Achievable for residential development means that development is likely to take place within 15 years of the entry date onto the register.

Before the land is entered on Part 1 of the Brownfield Land Register the local planning authority may carry out procedures as they see fit, including consultation.

PART 2 OF THE BROWNFIELD LAND REGISTER

Entry onto Part 2 of the Register is a grant of “permission in principle”. The local planning authority must enter a site onto Part 2 when it falls within the following criteria;

It is land within their area.

It meets the criteria set out for inclusion on Part 1 of the Register; and

The authority has decided to allocate the land for residential development having followed the relevant procedures (which means followed the consultation procedures as set out in the statutory regulations).

WHAT DOES THAT MEAN?

For inclusion onto Part 2 of the Register, consultation would take place in the same way as a planning application, so neighbours would be consulted as well as organisations such as Lincolnshire County Council Highways; but there is no advertisement(s) in the newspapers and at each site a notice has to be displayed. Consultees make representations about a site.

If the land is entered in Part 2 of the Brownfield Land Register it will be granted permission in principle, which establishes the suitability in principle, of land for housing-led development. Any permission in principle granted does not have conditions or a time limit attached to it.

There are some exemptions for entry onto Part 2 – major development which would have an environmental impact.

WHAT DOES GRANTING PERMISSION IN PRINCIPLE FOR A BROWNFIELD SITE MEAN?

Permission in principle will settle the fundamental principles of development (use, location, amount of development) for the brownfield site giving developers/applicants more certainty. A developer cannot proceed with development, however, until they have also obtained technical details consent. They will have to submit an application for this.

IS THIS THE SAME AS AN OUTLINE PLANNING PERMISSION?

It's slightly on a par with an outline permission in that it's about the principle use of the site. It appears to be more like the assessment carried out when allocating land in a development plan. In that it's a broad brush assessment measured up against national and local policy and having an oversight to any obvious material impediments.

WHAT IS TECHNICAL DETAILS CONSENT?

The technical details consent will assess the detailed design, ensure appropriate mitigation of impacts and that any contributions to essential infrastructure are secured. Both the permission in principle and the technical details consent stages must be determined in accordance with the local development plan, the National Planning Policy Framework and other material considerations.