

Report back from POS Workshop on Brownfield Land Registers & Permission in Principle (PiP)

The workshop in London on 23 May received presentations from the DCLG, Planning Officers Society (POS) and two of the 73 pilot authorities (Colchester and Sheffield) followed by discussions on ‘what you need to have in place to deliver your brownfield register by December 2017’ and ‘how can your authority maximise the benefit from PiP and Brownfield Registers’.

Brownfield Land Register - Introduction

- Both ‘*The Town and Country Planning (Brownfield Land Register) Regulations 2017*’ and ‘*The Town and Country Planning (Permission in Principle) Order 2017*’ came into force in April 2017. The Housing and Planning Act 2016 is the overarching legislation.
- The deadline to have a brownfield land register in place is 31 December 2017. DCLG clarified that this deadline is for Part 1 of the register.
- Further guidance in a similar format to the PPG and further technical guidance is anticipated to be published this summer.
- The Register has to be reviewed at least once a year.

Permission in Principle (PiP) - Introduction

- PiP at the moment only applies to the Brownfield Register. It is the intention that in the future (very soon) that it will apply to sites allocated in Local Plans and Neighbourhood Plans – this will lead to a longer process and further work.
- The grant of PiP is at the LPA’s discretion – there is no appeal procedure (note that the process could however be subject to Judicial Review). The cost of the work involved in granting PiP would be borne by the LPA.
- PiP + Technical Details Consent (TDC) = Permission to build.
- In relation to fees a TDC can command the same Fee as a Full Planning Application or Reserved Matters Application.
- The grant of PiP lasts for 5 years.

Brownfield Land Register and PiP

- The Brownfield Register contains two Parts. Part 1 is a list of brownfield sites. Part 2 is a list of those sites which are given PiP.
- You can have sites on Part 1 that do not go on to Part 2.
- Sites must meet the definition within the NPPF of previously developed land; have to be at least 0.25ha in size, or capable of delivering 5 dwellings; suitable, available and achievable.
- Part 1 Sites, should be those with existing planning permission, those which are allocated within the Local Plan.
- They could also include pre-application enquires; those from a recent 'call for sites'; emerging allocations; or from a specific 'call for sites'; or you could go out and identify sites.
- Available and Achievable is based upon existing information and the responses from the consultation process. Achievable also means it is developable within 15 years.
- Once a site is built out it is removed from the Register.
- Moving a site from Part 1 to Part 2 is at the LPA's discretion, although there has to be a clear, transparent and consistent approach – what is our density approach/policy?
- The Publication of the Part 2 Register is what gives the site PiP.
- EIA development and development that would be prohibited under habitats protection legislation is exempt.
- In certain instances an SEA of the register may be required.
- PiP has Mandatory Statutory Consultation - same as planning applications.
- PiP has Mandatory Publicity Requirements – Site Notice and Planning Register, no press notice required.
- The PiP must provide a description of the development and state the number of dwellings, which could be expressed as a range or 'at least', although the DCLG advise a range.
- Knowledge is needed that the site owner intends to sell or develop the land and that the LPA knows of no legal or ownership impediments.

- The requirement for our Habitats Mitigation and Monitoring Payment should be attached as an informative.
- PiP should be for a housing-led scheme, but can be mixed used – however it is not clear at present exactly how this is defined.
- Gardens can now be classed as greenfield, so what does this mean for the regeneration of an existing or cleared housing site?
- How are mixed use sites which contain elements of both brownfield and greenfield such as former school sites to be treated?

Technical Details Consent (TDC)

- The number of dwellings and development has to be in line with the PiP.
- Consultation takes place only with those statutory consultees who said they want to be consulted at the PiP stage.
- The timescales for determination are 5 weeks and 10 weeks dependant on the application being a Minor or Major (there is the ability for Extensions of Time).
- There are publicity requirements.
- You can attach conditions and planning obligations.
- There is no right of appeal
- Sites given TDC must go on the general Planning Register.

Conclusions/Questions

- Who within the Borough Council should undertake the work? It seems to be suggested that it should be a hybrid approach: i.e. Policy Team carry out Part 1 and Development Management carry out Part 2.
- Who would make the decision on sites moving to Part 2? Should it be under delegated authority i.e. with the Executive Director/Portfolio Holder or should it go to the Planning Committee or Cabinet?
- Consultation on sites that are included in Part 1 is discretionary– should we do this given that our initial Part 1 Register will be based on existing brownfield sites with permission from our Housing Trajectory and brownfield sites from our recent Call for Sites/HELAA process which have already been subject to consultation and publicity?

- Some LPA's are looking at providing Planning Briefs to go alongside the sites given PiP through Part 2 of the Register.
- Given the timescale, most LPAs are not looking at conducting a call for sites specifically for this but would carry one out for the 1st review. For us given we have recently concluded a general call for sites it would make sense not to do a specific call for sites for the initial Part 1 Register.
- Currently there appears to be no set timescale for moving sites onto Part 2 of the Register.
- The guidance(s) will be useful and is due to be published in the Summer.

