

## Report to Cabinet

12 October 2017

By the Cabinet Member for Planning and Development

**DECISION REQUIRED**



**Horsham  
District  
Council**

Not Exempt

### **Horsham District draft Brownfield Land Register 2017**

#### **Executive Summary**

The preparation, maintenance and publication of the brownfield land register is a new legal requirement that was introduced by the Housing and Planning Act 2016, with the required process set out in the Town & Country Planning (Brownfield Land Register) Regulations, 2017. Horsham District Council has now prepared a draft of this register and in line with best practice is seeking to publish the draft register for a period of consultation. This report seeks approval for the publication of the Council's draft Brownfield Land Register for a four week period of consultation between 20 October 2017 and 17 November 2017.

This draft Brownfield Land Register identifies 39 sites which have been identified for inclusion on the Register. The sites on the list are all in the public arena, as they have been identified from sites contained in the District's Strategic Housing and Employment Land Availability Assessment (SHELAA); through planning applications or are sites that are allocated for development in the Council's adopted planning policy documents.

The Council must take account of comments which are received on the draft register, make any necessary amendments and publish on the Council's website by 31 December 2017 in accordance with the legal requirements. If any substantive changes are proposed in response to the consultation, it may be necessary to prepare an update in early 2018. Any such update would be reported to Cabinet for approval. The Brownfield Land Register will be reviewed and updated annually by the end of each calendar year thereafter.

#### **Recommendations**

Cabinet is recommended:

- i) To agree to the publication of the draft Brownfield Land Register for a 4 week period of consultation from 20 October 2017 to 17 November 2017.
- ii) The Cabinet Member for Planning and Development has delegated authority to agree minor editorial changes to the draft Brownfield Land Register.
- ii) That the Cabinet Member for Planning and Development has delegated authority to approve the final Brownfield Land Register for publication by 31 December 2017.

## Reasons for Recommendations

- i) The recommendations are required to ensure that the statutory requirements in the Town and Country Planning Act as inserted by the new Housing and Planning Act 2016 and the Town & Country Planning (Brownfield Land Register) Regulations 2017, are met.
- ii) It is appropriate to invite public participation in the preparation of a new planning document for the District, in accordance with the Statement of Community involvement, February 2017.
- iii) Approval of the Brownfield Land Register for publication by 31 December 2017 is essential in order to meet the statutory requirements. If there are substantive changes proposed in response to the consultation, this may result in an update of the Brownfield Land Register in early 2018.

## Background Papers

The documents used in the preparation of this document include;

- The Horsham District Council Strategic Housing and Employment Land Availability Assessment, 2016.
- Brownfield Land registers data standard: preparing and publishing a register (28 July 2017).
- Horsham District Planning Framework (2015)
- Site Allocations of Land document published in 2007

**Wards affected:** Billingshurst, Broadbridge Heath, Colgate, Henfield Horsham Denne, Horsham Forest, North Horsham, Pulborough, Rudgwick, Southwater, Storrington & Sullington.

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## Background Information

### 1 Introduction and Background

- 1.1 The preparation, maintenance and publication of the brownfield land register is a new legal requirement that was introduced by the Housing and Planning Act 2016. The required steps in producing a brownfield register have now been set out in the Town & Country Planning (Brownfield Land Register) Regulations, 2017. Horsham District Council has prepared a draft register and in line with best practice is seeking to publish it for a period of consultation before the publication of the final register.

### 2 Relevant Council policy

- 2.1 The preparation of a brownfield site register is a new legal requirement and sites for inclusion on the register need to be considered against relevant Council policies. This is set out in more detail in the following sections of this report, but the relevant planning policies against which the suitability of sites for inclusion on the brownfield register have been considered are the Horsham District Planning Framework (2015) and the Site Allocations of Land document published in 2007.

### 3 Details

- 3.1 The Government is seeking to maximise the numbers of new homes built on brownfield land. The Town & Country Planning (Brownfield Land Register) Regulations 2017 set out the requirements for local planning authorities to prepare, maintain and publish a register of brownfield land which is considered to be suitable for housing development within its area. The Town and Country Planning (Permission in Principle) Order 2017 allows for some sites to be granted 'Permission in Principle' as a new route to obtain permission for development on these sites, which is also referred to in the Regulations (*Note - a 'Permission in Principle' is similar to an outline planning permission and is explained in more detail in Appendix 1 paragraph 2.5*).
- 3.2 The Regulations require the Brownfield Land register to be produced in two parts:

**Part 1** is a list of all sites which are considered to meet the legislative criteria of being 'suitable, available and achievable' for development. This list will include sites with planning permission, or sites that are allocated in a Local or Neighbourhood Plan, as well as sites without planning permission that meet other legislative criteria.

**Part 2** of the register will comprise only those sites in Part 1 that the local planning authority has decided would be suitable for a grant of Permission in Principle. If no sites are considered to meet the criteria for Permission in Principle, the Part 2 of the Brownfield register can be left empty.

- 3.3 The Horsham District Council draft Brownfield Land Register 2017 is set out at Appendix 1 of this report. The draft Register contains the sites which it is considered meet the criteria for Part 1 of the Brownfield Land Register. At the current time it is considered that there are no sites suitable for a grant of Permission in Principle and

it is recommended that there are no entries in Part 2 of the Register this year. This will need to be kept under review in future updates of the Register.

- 3.4 In considering sites for inclusion on the Register, the starting point was the Council's Strategic Housing & Employment Land Availability Assessment (SHELAA) together with planning application data and the Council's Local Plan documents. Land has been included on the draft Register where it meets the definition of 'previously developed land' as set out in Annex 2 of the National Planning Policy Framework (definition is set out in Appendix 1 paragraph 1.5) together with criteria set out in the Regulations. When considering site suitability, legislation requires that Councils have regard to the both local and national planning policies. As a result, sites were not considered suitable if they did not meet the planning criteria in the Horsham District Planning Framework. Brownfield land has therefore been excluded from the Register if it is in a rural location outside a built-up area boundary, or is currently in employment use.
- 3.5 In total 39 sites have been included on the draft Brownfield Land Register. These are located in primarily in Horsham town, but there are also a small number of sites in other settlements across the District. These include Broadbridge Heath, Billingshurst, Henfield, Pulborough and Storrington.

## 4 Next Steps

- 4.1 It is not a legal requirement that Local Authorities consult on the content of Part 1 of the Brownfield Land Register. It is however considered that as the Council is identifying land which is considered suitable for residential development that it would be appropriate to do so, in accordance with the Statement of Community Involvement, February 2017. In order to ensure that the final Brownfield Land Register can be finalised by 31 December 2017, it is proposed that a four week consultation period be undertaken between 20 October 2017 and 17 November 2017.
- 4.2 Guidance on the production and format of the Register was published at the end of July 2017, which has given local planning authorities very little time to prepare a draft brownfield register. Given the consequential limited time to take account of any comments before publication of the final Register by the end of December 2017, an update to the Brownfield Land Register may be necessary in 2018.
- 4.3 An update will be necessary if any new brownfield sites are proposed for inclusion on the register which do not already have planning permission, or if any other significant changes are proposed to the draft Brownfield Land Register that would require additional consultation. Any proposed update to the Brownfield Land Register will be reported to Cabinet for approval prior to consultation.
- 4.4 The Council's response to comments made on this document will be published together with the final Brownfield Land Register document on the Council's website by 31 December 2017. This document will be published in a format which accords with the National Data Standard proscribed by the Government.

## **5 Views of the Policy Development Advisory Group and Outcome of Consultations**

- 5.1 The proposed content of this document was discussed at the Planning and Development Policy Development Advisory Group on 7 September 2017. A small number of factual amendments were made to the register in light of the discussion, for example to reflect recent planning applications which had been submitted to the Council since the preparation of the draft Register.

## **6 Other Courses of Action Considered but Rejected**

- 6.1 One course of action would be to not prepare a Brownfield Land Register. This would however mean that the Council would be in breach of its legal duties as it is a legal requirement to prepare, maintain and publish a Brownfield Land Register by 31 December 2017.
- 6.2 A second course of action has been to consider whether any sites would be suitable for inclusion on Part 2 of the Register and therefore be subject to a grant of Permission in Principle. At this stage no sites are considered to be suitable for a grant of such permission. This will be kept under review, but sites on the Register without planning permission will still need to be granted outline or full planning permission, subject to the deliberations of the appropriate Planning Committee.

## **7 Resource Consequences**

- 7.1 There are no direct financial consequences arising from this report other than the normal staff and publication costs associated with holding a consultation.

## **8 Legal Consequences**

- 8.1 As set out in paragraph 1.1, the Town & Country Planning (Brownfield Land Register) Regulations, 2017 places a duty on local authorities to prepare, maintain and publish a register of brownfield land suitable for residential development by 31 December 2017. It is considered that the production of this document will assist in meeting this requirement.
- 8.2 Cabinet is advised that Regulation 19 of The Town and Country Planning (Brownfield Land Register) Regulations 2017 specifically excludes any decision to include land in part 2 of the Register and to grant planning permission in principle being an Executive Decision. Therefore, any future recommendation to include site(s) in part 2 of the Register will be a Council decision unless the Council seeks to delegate it.

## **9 Risk Assessment**

- 9.1 The production of a Brownfield Land Register is also a legislative requirement under the Town & Country Planning (Brownfield Land Register) Regulations, 2017. Whilst at the current time it is unclear what sanctions would be placed on the Council if it does not produce a Brownfield Land Register in the allotted timescale, the Council would be in breach of its legislative duties.

- 9.2 In addition to the legal risks associated with the production of this document it should be noted that the purpose of a brownfield land register is to assist the delivery of homes on previously developed land by identifying land suitable for development and speeding up the planning process. Not producing a register could potentially result in greater pressure for development on greenfield land within Horsham district, although it is considered that this additional risk would be small, as the Council is able to identify suitable brownfield land from the Council's existing SHELAA database in any event.

## **10 Other Considerations**

- 10.1 There are no Crime & Disorder; Human Rights; Equality & Diversity and Sustainability issues associated with this project.

## **APPENDICES TO REPORT**

A copy of the proposed Brownfield Land Register (Part 1) has been attached to this report as Appendix 1. The Register will be placed on the Council's website in spread sheet form incorporating the necessary fields as set out in the Brownfield Land Register data standard.