

UNLOCKING POTENTIAL: BEST PRACTICE FOR BROWNFIELD LAND REGISTERS

POLICY
STRATEGIC LAND STUDIES
CASE
SUITABLE PERMISSION
ASSESSMENT SITE GOVERNMENT
PIP MORE IDENTIFY
RESEARCH CAPACITY
DEVELOPMENT
INCREASE DEVELOPED
BROWNFIELD
CERTAINTY SMALL HOMES DATA
PROCESS NEED
AUTHORITIES
IDENTIFYING REGISTERS
POTENTIAL GREENFIELD
PLAN HOUSING
AUTHORITY
GUIDANCE



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UNLOCKING POTENTIAL: BEST PRACTICE FOR BROWNFIELD LAND REGISTERS

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FOREWORD

Context

CPRE campaigns for a beautiful and living countryside and we do that by working to protect, promote and enhance our towns and countryside to make them better places to live, work and enjoy. As part of this we have long campaigned for prioritising use of brownfield land for housing because we believe it stops the waste of precious countryside.

Our 'Waste of Space' campaign played a significant role in putting brownfield land back on the housing and planning agenda after local authorities were no longer required to submit brownfield land lists in 2010. In 2016 the Government announced that they would be introducing a requirement for Brownfield Land Registers, and the regulations were published in April 2017.

This new research commissioned from HTA Design LLP examines the identification and assessment of brownfield sites by local planning authorities in light of the Brownfield Land Register Regulations, 2017.

It finds that national and local government could be doing far more to identify more brownfield land and make the task more efficient in the process.

In the recent Budget, the Chancellor reaffirmed the Government's commitment to ensuring brownfield and urban land is used as efficiently as possible. This research illustrates that more needs to be done to achieve this aim and CPRE will continue to fight for a strong National Planning Policy Framework, as it undergoes review, to provide the best grounding for this.

EXECUTIVE SUMMARY

Context

There is significant pressure for the planning and development sector to identify suitable brownfield sites to deliver 1 million new homes over the next five years and to secure planning consent on 90% of suitable brownfield sites by 2020. Untapped development potential was highlighted in CPRE's 2014 report *'From wasted space to living spaces'*, which concluded that at least 1 million new homes could be provided on suitable brownfield land in England, although the Department for Communities and Local Government considered this estimate to be "wildly over optimistic" in 2015.

HTA Design LLP have been commissioned by CPRE to review the process in which brownfield sites are identified for development. This report has been informed by a desktop literature review and discussions with a small selection of local planning authorities to inform recommendations as to how planning policy, procedures and tools, such as Brownfield Land Registers, can be refined to identify more brownfield sites for development.

This research reviews the process which local planning authorities undertake to identify brownfield sites for development. It was conducted in the period after the Town and Country Planning (Brownfield Land Register) Regulations came into force on 16 April 2017, which requires all local authorities to prepare and maintain registers of brownfield land suitable for housing-led development, and before the publication of Planning Practice Guidance on how Brownfield Land Registers and Planning Permission in Principle on 28 July 2017.

The Planning Practice Guidance says the purpose of the Brownfield Land Register is to provide up-to-date and consistent information on brownfield sites that local authorities consider to be appropriate for residential development. The Registers should be published locally as open data and are expected to provide transparent information about suitable and available sites.

This research sheds light on some of the biggest challenges facing local authorities when compiling Brownfield Land Registers. The findings should be considered carefully in order for local authorities to make the most use of this new planning instrument and increase the speed at which new homes are delivered through the planning system on suitable brownfield sites¹. This research highlights ways in which more suitable brownfield sites could be identified by reviewing the current processes and approaches local planning authorities apply when identifying sites for inclusion on their Brownfield Land Register.

Process

Five local authorities formed part of this research as case studies, including four authorities which participated in the Brownfield Land Register pilot.

Key themes explored with each local authority include:

- the purpose of the Brownfield Land Register the question of dealing with greenfield land within the curtilage of brownfield sites;
- windfall sites;
- using the 'call for sites' procedure to identify new brownfield sites for registers;
- the need for additional procedures to identify sites that could be included in the Register; and
- the inclusion of smaller sites (below 0.25 ha) on the Register.

Key findings

The interviews with the case studies identified a number of challenges and opportunities in using Brownfield Land Registers to promote development on brownfield sites. The key findings are summarised below.

Across the board, the process of collating Brownfield Land Registers was seen as a supplementary activity that flowed out of the Strategic Housing Land Availability Assessment (SHLAA). Brownfield Land Registers are not currently being used as a tool to drive the identification of brownfield sites although the Government's Planning Practice Guidance indicates that it might be possible to use them in this manner. The collation of the Register has not led to the production of any new information, or the adoption of any new procedures/tools, to identify new brownfield sites for development.

The search for, and identification of, developable brownfield sites is currently largely done by officers within the planning policy department of local authorities. Wider skills are required to make this process efficient.

Innovative practices for identifying potential brownfield sites for development in lieu of resource shortages are not being explored. Engagement with the wider public, community and/or neighbourhood planning groups in the production of Brownfield Land Registers has been limited.

Since the publication of the Regulations, four of the case studies anticipated that the identification of sites would now focus on the criteria stipulated in the Brownfield Register, which means that sites larger than 0.25 hectares, or capable of generating five or more units, would be prioritised. However, it was found that two of the case studies anticipated that due to resource shortages the smaller development sites are likely to remain overlooked.

In some cases, applying the definition of previously developed land as set out in the National Planning Policy Framework, presented a challenge, particularly in rural authorities where there are fewer suitable brownfield sites. Rural authorities highlighted that it may be necessary to release some associated greenfield to enable development on suitable brownfield sites, but that these sites will be excluded from the Register. The statutory guidance published by the Government on Brownfield Land Registers confirms that greenfield land is not appropriate to be included in the Brownfield Land Register.

The findings of this research also highlight there is uncertainty around the purpose of the Brownfield Land Register – whether it is to provide accurate data on the amount of brownfield land available for redevelopment, or whether it is a planning mechanism which can be used to provide certainty to developers that brownfield sites are suitable for housing led-development.

Initial views on the use of Permission in Principle (PiP) were discussed. PiP is an alternative route to introduce certainty on the in-principle matters – use, location and amount of development. During discussions, local authority officers raised concerns that this process may lead to the loss of revenues compared to the normal planning application process. Estimating the development capacity of mixed use sites is also seen as a challenge. The purpose of the Brownfield Land Register may be valued more once the value of Permission in Principle has been evidenced and is effective. The Government should undertake an early review of how local authorities are developing their Registers and implementing Permission in Principle. This must be sooner than the current commitment to a review in five years.

Recommendations

We recommend that:

- The Government amends the guidance to encourage the identification of the full range of appropriate brownfield sites for housing
- The Government fulfils its commitment to make the Land Registry data fully accessible
- Local authorities engage externally and internally to raise the profile of the Register

More specifically our recommendations are on five themes:

Maximising identification

The Government should utilise the opportunity of the review of the National Planning Policy Framework to strengthen the identification of brownfield development opportunities (Section 6.7). They should also encourage local authorities to consider ways in which to identify and bring forward small brownfield sites (Section 6.7).

Visibility

The Government should open up HM Land Registry to ensure that local authorities have free access to all available land data (Section 6.3). The Government should also provide guidance to address the security of any personal information to be held in the Registers (Section 6.9).

Local authorities should make use full use of the template for the Register as well as explore ways to improve accessibility of the data it holds, for example through integrated GIS mapping (Section 6.3).

An Annex of rejected or debated sites should be included as part of the Register to improve transparency and support the annual review of the Register (Section 6.6).

Proactive engagement

The Government needs to clarify and publicise wider the purpose of the Registers to maximise the opportunities the Registers provide (Sections 6.2 and 6.4).

Local authorities should explore ways in which to engage a wider range of stakeholders in the process (Section 6.4). Technological innovation could provide an opportunity for this (Section 6.4). The Government can also play a role in sharing best practice (Section 6.8).

Collaboration

The Government should clarify the relationship of the Registers with the evidence base of a local plan and five year housing land supply to avoid duplication of work (Section 6.2).

Local planning authorities should develop strategies to enable effective collaboration between officers and teams to share skills and expertise and make the process more efficient (Sections 6.1, 6.5, 6.8 and 6.9).

Further review

The Government should undertake a regular review of the Brownfield Land Registers policy, including the development of the Register, the impact on delivering homes and the impact on the land market (Sections 6.2 and 6.8).

We recommend that the Government undertakes a review of the definition of brownfield so that urban and rural differences can be taken into account to ensure suitable brownfield sites, reliant on greenfield land, can be included on the Register (Section 6.6). The sharing of best practice between National Government and local authorities will be an important way to improve the process of developing an effective Brownfield Land Register (Section 6.4).

The role of technological innovation should be explored further to improve participation in the process and ensure data is made more accessible. There is the opportunity to explore how multi-media participatory tools can be used not just for Brownfield Land Registers but for increasing engagement in planning activities.

1. INTRODUCTION

1.1 There is significant pressure for the planning and development sector to identify suitable brownfield sites to deliver 1 million new homes over the next five years and to secure planning consent on 90% of suitable brownfield sites by 2020. Untapped development potential was highlighted in CPRE's 2014 report 'From wasted space to living spaces' which concluded that at least 1 million new homes could be provided on suitable brownfield land in England, although the Department of Communities and Local Government considered this estimate to be 'wildly over optimistic' in 2015^{2,3}.

1.2 HTA Design LLP have been commissioned by CPRE to review the process in which brownfield sites are identified for development. This report has been informed by a desktop literature review and discussions with a small selection of local planning authorities to inform recommendations as to how planning policy, procedures and tools, such as Brownfield Land Registers, can be refined to identify more brownfield sites for development.

1.3 The timing of this research coincides with:

- the requirement for all local planning authorities to compile a Brownfield Register by December 2017; and
- the proposed amendments to the National Planning Policy Framework set out in the Housing White Paper published February 2017, to attach greater weight to support the redevelopment of suitable brownfield land within existing settlements.

1.4 The formal guidance to support local planning authorities with preparing and publishing brownfield land registers was published by the Department for Communities and Local Government on 28 July 2017 after the data for this project had been collected. The recommendations of this report, however, are still valid in determining how the process for identifying brownfield sites can be refined to identify brownfield sites for development more efficiently. The research draws attention to the challenges, in both the present and future, presented to local authorities when making Brownfield Land Registers effective tools to increase housing delivery.

► Hanham Hall: An award winning residential scheme on a former hospital site adjacent to the Green Belt redeveloped for housing by Barratt Homes designed by HTA Design LLP



2. CPRE, 2014 from Wasted Space to Living Spaces. Available: <http://www.cpre.org.uk/resources/housing-and-planning/housing/item/3785-from-wasted-space-to-living-spaces>

3. Department for Communities and Local Government (DCLG), 2015, Housing and Planning Bill 2015/16 Impact Assessment <http://www.parliament.uk/documents/impact-assessments/IA15-010.pdf>

2. POLICY CONTEXT

2.1 In 2017, the Government has made the commitment to deliver 1 million new homes over the next five years and get planning permission on 90% of brownfield land suitable for housing by 2020⁴. This echoes the commitment made in 2014 to secure planning permission for up to 200,000 homes on previously developed land across the country.

2.2 Since the publication of the National Planning Policy Framework (NPPF) in 2012, the priority to emphasise brownfield development and increase residential development on such sites has been at the forefront of government thinking. Housing and Planning Ministers at the Department for Communities and Local Government have continued to reiterate their commitment to increase housing supply on brownfield land.

"We want to build more homes in this country so making sure that we reuse brownfield land is crucial. We want to bring life back to abandoned sites, create thousands more homes and help protect our valued countryside."

Gavin Barwell⁵ July 2016 – June 2017 Former Housing and Planning Minister

"But with enough brownfield land available for up to 200,000 homes we can do more. Today's fund will get local development orders in place on brownfield land across the country, paving the way for more to come forward in the future."

Brandon Lewis⁶ Housing and Planning Minister July 2014 – July 2016

"I note your call for a sequential test for brownfield land I am pleased to say that the National Planning Policy Framework already recognises the important contribution of development on brownfield land to meeting our housing needs and Government is working hard to bring every inch of brownfield land back into use, where this is possible and practicable. We have also introduced a range of initiatives to bring more brownfield land back into use – for example reform of permitted development rights – and earlier this month the Chancellor of the Exchequer announced further measures to make very best use of derelict land and former industrial sites to help provide the homes this country desperately needs. Our aim is to see permissions in place on more than 90 % of suitable brownfield sites by 2020 – which could provide up to 200,000 new homes. Taken together, our measures are helping to tackle the housing shortage across England whilst reducing pressure on greenfield land."

Nick Boles⁷ Housing and Planning Minister September 2012 – July 2014

4. Department for Communities and Local Government (DCLG), 2017, Press release 'New measures to unlock brownfield land for thousands of homes' <https://www.gov.uk/government/news/new-measures-to-unlock-brownfield-land-for-thousands-of-homes>

5. Department for Communities and Local Government (DCLG), 2017, Press release 'New measures to unlock brownfield land for thousands of homes' <https://www.gov.uk/government/news/new-measures-to-unlock-brownfield-land-for-thousands-of-homes>

6. Department for Communities and Local Government (DCLG), 2014, Press release '£5 million fund will unlock 100 brownfield sites for new homes' <https://www.gov.uk/government/news/5-million-fund-will-unlock-100-brownfield-sites-for-new-homes>

7. Department for Communities and Local Government (DCLG), 2014, Letter to Deputy Leader and Cabinet Member for Planning Hart District Council, NB/NB/012632/14 https://www.hart.gov.uk/sites/default/files/4_The_Council/Policies_and_published_documents/Planning_policy/Letter%20from%20Nick%20Boles%20MP%20-%202023.07.2014.pdf

2.3 The Housing White Paper “*Fixing our broken housing market*” reiterated that planning authorities should continue to prioritise developments on available brownfield sites, making more land available for homes in the right places⁸.

2.4 Various publications have indicated that there are swathes of brownfield land across the country that is unused or may be available for development. Foresight Paper (No. 2) published by CPRE on *Removing Obstacles to Brownfield Development* concluded that there is capacity to provide over 1.8 million homes on the known brownfield land which local authorities consider suitable for housing (34,980 ha), assuming the average density of housing delivered on brownfield land at 53 dwellings per hectare. The Government acknowledge the untapped potential of brownfield sites but disputed figures previously proposed by CPRE due to uncertainties whether these brownfield sites would be suitable for housing. The CPRE Foresight Paper (No.3) *Ensuring Responsive Development on Previously Developed Land* recommended that reform is needed concerning how data is collected and analysed for brownfield sites and that this information needs to be more accessible and embedded in a process that encourages participation⁹.

2.5 The Government recognises that data available on brownfield land across the country is out of date and of poor quality. Historically, local planning authorities were required to participate in a national monitoring process to inform a national picture of land use. Local authorities participated in this process classifying land use across their borough or district in accordance with the definitions, providing an annual return to the amount of Previously-Developed Land (PDL) in their area. In 2006, the Government published a supporting note to address data discrepancies encountered, as often the data that was provided was inconsistent due to the land use categories and definitions used. Despite this attempt to log all the previously developed land in the country, the monitoring requirements ceased to be mandatory from 2010. Data has not been collected through this voluntary process since 2012¹⁰.

The introduction of Brownfield Land Registers – a tool to untap the unlocked potential of previously developed land

2.6 Brownfield Land Registers have been introduced to incentivise and increase the supply of land for new homes as a way to provide up-to-date, publically available information on brownfield land that is suitable for housing¹¹. The registers were first piloted in 2016 to bring forward derelict and underused land for new homes across 73 local planning authorities. Following this pilot, the Housing and Planning Act 2016¹² introduced a duty for local authorities to prepare, maintain and publish Brownfield Land Registers of land which is readily available in the near future, for housing development. The regulations¹³ were subsequently published on the 16 April 2017. At the end of April frequently asked questions were published on the Government’s website¹⁴. Statutory guidance on the implementation of the 2017 regulations was published three months later on the 28 July 2017.

2.7 The Brownfield Land Regulations fulfil the Government’s objective to ensure that brownfield land is used as much as possible for housing and requires local authorities to have registers of brownfield land that is suitable for housing. The Housing White Paper states that these registers will ensure that “nationally consistent information on suitable brownfield sites is kept up to date and made publically available for communities and developers”.¹⁵ Once compiled the Government predict that these registers will provide more certainty for developers and improve transparency on brownfield sites that are available and suitable for housing-led development, and in turn in conjunction with wider planning reforms, will increase the number of homes that will be built on brownfield land.

2.8 The explanatory memorandum to the regulations states that :

“The brownfield registers policy is intended to support a general increase in housing supply. It is envisaged that registers will:

- provide up-to-date publicly available common information on brownfield land that is suitable for housing;
- improve the quality and consistency of data on suitable brownfield land which will provide certainty for developers and communities;
- encourage investment in local areas; and
- provide a means through which permission in principle may be granted for housing-led development on suitable brownfield sites.

It is intended that the data collected via the registers will be used to help assess the progress that local authorities are making in getting planning permissions in place for housing on suitable brownfield sites.”

2.9 The Brownfield Land Register regulations state that the register must be in two parts. Brownfield land will be entered in Part 1 where it meets the criteria in regulation (4(1)) and in Part 2 where it has also been allocated by the local planning authority (LPA) for residential development following mandatory publicity and consultation procedures. The regulations require each local authority to publish Part 1 of their brownfield land register by 31 December 2017. The criteria set out in Regulation 4 (1)(a) of the Town and Country Planning (Brownfield Land Register) Regulations 2017 stipulates that the land has to be at least 0.25 ha or should be capable of supporting at least five dwellings to be included on the register. However the regulations also encourage local authorities to consider and include smaller suitable brownfield sites which meet 4(1)(b) (c) (d) but not (a) relating to size and capacity.

Criteria

4.—(1) The criteria referred to in paragraph (1)(b) of regulation 3 are, in relation to each parcel of land—

- a) the land has an area of at least 0.25 hectares or is capable of supporting at least five dwellings;
- b) the land is suitable for residential development;
- c) the land is available for residential development; and
- d) residential development of the land is achievable.

2.10 Regulation 4(2) (b) states that for land to be considered available for residential development (one of the criteria) the developer must have expressed an intention to develop the land. “The developer” means the developer in control of the land on the prescribed date. The regulations or the explanatory memorandum lacks clarity on the process, which the local authority should apply to assess the sites, and how capacity of the sites should be determined. The regulations do, however, highlight that to be considered “suitable for residential development”, sites either need to be allocated, have planning permission, or be appropriate for development in the opinion of the LPA, having regard to:

- i. any adverse impact on—
 - (aa) the natural environment;
 - (bb) the local built environment, including in particular on heritage assets;
- ii. any adverse impact on the local amenity which such development might cause for intended occupiers of the development or for occupiers of neighbouring properties; and
- iii. any relevant representations received.

2.11 Before entering land onto their brownfield registers, the regulations state that LPAs need to notify a number of stakeholders of their intention; interested parties will have 21 days to respond to notifications and the LPA need to consider any representations of the achievability and availability of the site.

8. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/590464/Fixing_our_broken_housing_market_-_print_ready_version.pdf

9. CPRE, 2015, *Foresight Paper (No.3) 'Ensuring Responsive Development on Previously Developed Land'* <http://www.cpre.org.uk/media-centre/latest-news-releases/item/3876-brownfield-regeneration-must-be-backed-by-better-policy>

10. <https://www.gov.uk/government/collections/national-land-use-database-of-previously-developed-land-nlud-pdl>

11. Referred to as BLR, Brownfield Register or 'the register'

12. Paragraph 150 of the Housing and Planning Act 2016

13. Town and Country Planning (Brownfield Land Register) Regulations 2017

14. <https://www.gov.uk/government/publications/brownfield-registers-and-permission-in-principle/brownfield-registers-and-permission-in-principle-frequently-asked-questions>

15. A.26 Housing White Paper 2017

2.12 Along with the regulations on the Brownfield Registers, the Government published the Town and Country Planning (Permission in Principle) Order 2017. Permission in Principle (PiP) will allow land allocated in the local plan and on Part 2 of the register to receive planning consent for residential use via a development order. The objective of PiP is to provide a greater degree of certainty in relation to location, use and the amount of development on sites, particularly for small and medium businesses, to accelerate and avoid drawn out discussions that can occur whether residential use is acceptable on a site or not. It separates the decision about the principle of whether housing development should be approved from a later technical details consent process.

2.13 There will be two routes to secure consent for residential led development on suitable identified sites: an allocation PiP and an application PiP. Planning permission will be granted following the provision of appropriate technical details for a site with 'application PiP'. The applicant will need to secure Technical Details Consent (TDC) within a five-year period of PiP coming into force on that site providing there has been no material change of circumstances. The online Planning Policy

Practice Guidance states the LPA will need to have regard to the National Planning Policy Framework and local development plan when deciding to grant permission in principle or technical details consent. As Technical Details Consent will not entirely replace the usual planning process for brownfield sites, section 106 and highways agreements may still be required. Any scheme submitted to secure consent for the technical details on a PiP site still needs to comply with the adopted development plan, for example policies on design and approach to affordable housing. The guidance confirms that the Technical Details Consent can be refused if the details, including the design of the buildings or any mitigation measures, are not acceptable. However, the local planning authority cannot revisit the decision on the fundamental principle of development as these would have been settled at the PiP stage.

2.14 It is intended that the process of PiP, combined with the Brownfield Land Register, will reduce the time in which brownfield sites come forward for development as there will be certainty around site suitability for residential development and its capacity. However, its capacity to do so remains untested.

The definition of brownfield land

2.15 This research applies the definition of previously developed land as contained in Annex 2 of the NPPF (2012) as "land which is or was occupied by permanent structures, including the curtilage of developed land (although it should not be assumed the whole of the curtilage should be developed)".

2.16 Case law has tested the application of the National Planning Policy Framework definition of "previously developed land" (commonly known as "brownfield land")¹⁶. An Inspector's decision to allow the change of use of part of garden at a dwelling located within the Kent Green Belt to a travellers site was upheld by the High Court on the basis that the site fell within the official definition of brownfield land. The High Court agreed in January 2016 that only residential gardens within the "built-up area" were exempt from the definition of previously developed land whereas, residential gardens outside "built-up areas" were classified as brownfield¹⁷. There is, however, uncertainty around the definition of "built-up area".

2.17 This decision is significant as the definition of "previously developed land" was introduced to the National Planning Policy Framework to ensure that "garden-grabbing" did not take place. However, this recent case law clarifies that residential garden land located outside of "built-up areas" can be considered as "brownfield" land rather than "greenfield" as it has been widely understood before.

2.18 The implications of this decision is that local authorities and others will now be questioning how to identify "built-up areas" to determine if the land should be classified as "previously developed land".

2.19 The recent Housing White Paper proposed to amend the National Planning Policy Framework to indicate that greater weight should be attached to the value of using suitable brownfield land within settlements for homes. The intention to introduce the planning reforms outlined in the Housing White Paper was evident in this year's Queens speech¹⁸.

"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 where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time."

Annex 2 NPPF (2012).

16. http://localgovernmentlawyer.co.uk/index.php?option=com_content&view=article&id=25704%3Aplanning-court-to-hear-key-case-on-residential-gardens-and-brownfield-land&catid=63&Itemid=31

17. *Dartford Borough Council v Secretary of State for Communities and Local Government*; Date: 21 January 2016; Ref: CO/4129/2015. *Dartford Borough Council v The Secretary of State for Communities and Local Government & Ors*, Court of Appeal - Civil Division, March 14, 2017, [2017] EWCA Civ 141, [2017] WLR(D) 181

18. <https://www.gov.uk/government/publications/queens-speech-2017-background-briefing-notes>

3 . THE KNOWN CHALLENGES FOR IDENTIFYING BROWNFIELD LAND

3.1 A short review of published reports prior to undertaking fieldwork for this research identified the following key issues, which prevent all suitable brownfield sites being identified or assessed for housing development. These include:

- Resources;
- Transparency;
- The role of small sites; and
- Unknown potential: windfall

Resources

3.2 In *Small is Beautiful* (2016) the Local Government Information Unit (LGIU) and Federation of Master Builders (FMB) reported that the barriers to identifying and allocating small brownfield sites are due to the way in which planning departments are funded and operated, which impacts on their proactivity and prioritisation of smaller brownfield sites¹⁹. The CPRE report *From Wasted Space to Living Space* corroborates this sentiment stating that local authorities have fewer resources than before to undertake strategic brownfield development and often lack the skills and staff capacity to take a proactive role²⁰. The 2007 CPRE report *Untapped Potential* calls for more robust monitoring to enable local authorities' behaviour and processes to become more proactive and thorough, allowing them to confidently predict future housing trends and allocate sites accordingly and undertake further survey work as necessary²¹.

Transparency

3.3 The lack of transparency in the land market is a serious barrier to building more homes in England. In 2016, an article by Shelter called for the Government to open up all land data held by the public sector, giving local planning authorities and neighbourhood forums stronger tools to plan effectively²². Understanding who owns and controls land in their area would allow

local authorities and communities to plan proactively based on what the area needs, rather than reactively in response to planning applications²³. Shelter concluded that by increasing the transparency of the land market, innovation would occur, encouraging participation from different sectors and allowing the market to work more efficiently, with the ultimate aim of getting more homes built.

3.4 The CPRE Foresight Paper (No.3) *Ensuring Responsive Development on Previously Developed Land* recommended that reform is needed concerning how data is collected and analysed for brownfield sites and that this information needs to be more accessible and embedded in a process that encourages participation²⁴.

The Role of Small Sites

3.5 In *Small is Beautiful*, the LGiU and FMB presented the perspective of those bringing forward small sites²⁵. There is widespread perception amongst builders that the planning system is too burdensome and complex when considering small sites. Moreover, previously there has been no universally applicable definition of a small site. Variations in local geography and population density mean that sites considered small by some planning authorities, could be considered large by others. For the purpose of the LGiU and FMB report, a small site was defined as unlikely to be developed by large volume house builders. For lack of a better measure, a line was drawn at sites with the capacity for 30 units or less, or size of 1.5 hectares or less²⁶. The brownfield register has its own specifications on site thresholds, previously stated in the introduction as 0.25 hectares, or capable of delivering at least five homes, with the option to include smaller sites through part 2. Therefore, in theory it should help to encourage smaller sites to be incorporated into the process more easily.

3.6 CPRE commissioned research from the former consultancy Llewelyn Davies Yeang, in *Untapped Potential*, which found that 45% of small sites in London had not come forward for development almost ten years after they were identified²⁷. This implies that there is a problem with the process between when a site is allocated and when it is delivered. *Small is Beautiful* claims that delays are due to a number of reasons: time constraints, resource constraints, rigid planning application process, depleted source of in-house/specialist advice, and lack of proactivity correlating with lack of resources²⁸.

Unknown Potential: Windfall

3.7 The implications of windfall allocation of small sites are considered in two ways. In *Small is Beautiful* LGiU and FMB maintain that there is friction in how the planning process deals with small sites that come forward as windfall applications. Designating small sites as windfall sites (as is often the case because it is often

too resource intensive to allocate small sites as part of the local plan) mean that they are dealt with on a case-by-case basis, which acquire a high-risk status from a developer's point of view, who are concerned about delays and uncertainty²⁹. As previously mentioned, it is difficult to discern what size local authorities classify as a small site due to contextual factors. This also translates to how a windfall site is defined with a similar size threshold. CPRE *Untapped Potential* makes the case that because there is an increased designation of small sites as windfall, local assessments of capacity are not picking up the contribution of windfall sites³⁰. If local capacity assessments are underestimating windfall potential, then pressure increases for local and regional planning authorities to identify and allocate greenfield land for residential development.

▶ *Drakes Place: A housing development comprising of 75 new homes on a redundant brownfield site owned by the HCA in central Aylesbury designed by HTA with Wates Living Space 'Highly Commended' for Design at Aylesbury Vale District Council (AVDC) Design Awards 2015*



19. LGiU & FMB, 2016, *Small is Beautiful*. Available: <http://www.lgiu.org.uk/report/small-is-beautiful-delivering-more-homes-on-small-sites/> page 18

20. CPRE, 2014, *Wasted Space to Living Space*. Available: <http://www.cpre.org.uk/resources/housing-and-planning/housing/item/3785-from-wasted-space-to-living-spaces> page 27

21. CPRE, 2007, *Untapped Potential* <http://www.cpre.org.uk/resources/housing-and-planning/housing/item/1943-untapped-potential> page 12

22. Shelter, 2016, *Why should the Government improve land market transparency?* Available: <http://blog.shelter.org.uk/2016/11/why-should-the-government-improve-land-market-transparency>

23. Shelter, 2016, *Why should the Government improve land market transparency?* Available: <http://blog.shelter.org.uk/2016/11/why-should-the-government-improve-land-market-transparency>

24. CPRE, 2015, *Foresight Paper (No.3) 'Ensuring Responsive Development on Previously Developed Land'* <http://www.cpre.org.uk/media-centre/latest-news-releases/item/3876-brownfield-regeneration-must-be-backed-by-better-policy>

25. LGiU & FMB, 2016, *Small is Beautiful*. Available: <http://www.lgiu.org.uk/report/small-is-beautiful-delivering-more-homes-on-small-sites/> page 19

26. LGiU & FMB, 2016, *Small is Beautiful*. Available: <http://www.lgiu.org.uk/report/small-is-beautiful-delivering-more-homes-on-small-sites/> page 6

27. CPRE, 2007, *Untapped Potential* <http://www.cpre.org.uk/resources/housing-and-planning/housing/item/1943-untapped-potential> page 11

28. LGiU & FMB, 2016, *Small is Beautiful*. Available: <http://www.lgiu.org.uk/report/small-is-beautiful-delivering-more-homes-on-small-sites/>

29. LGiU & FMB, 2016, *Small is Beautiful*. Available: <http://www.lgiu.org.uk/report/small-is-beautiful-delivering-more-homes-on-small-sites/> page 17

30. CPRE, 2007, *Untapped Potential* <http://www.cpre.org.uk/resources/housing-and-planning/housing/item/1943-untapped-potential> page 11

4 . CASE STUDIES

4.1 Eight interviews were completed comprising of five local authorities, an academic and a representative of a trade body.

4.2 Local authority case studies were chosen to comment on the practicalities of implementing a process to identify and assess brownfield sites for development. From different regions, the governance areas of each authority were comprised of a mixture of urban and rural land. Table 1 provides an overview of the authorities, key demographic characteristics, a summary of their performance against their Local Plan/ Core strategy housing targets, and level of development completed on previously developed land during the 2015/16 annual monitoring period.

4.3 Four out of the five case studies participated in the National Government Pilot Scheme to compile a Brownfield Land Register in 2016. Only one authority chose not to publish their register following the pilot.

The City of Lancaster did not participate in the pilot but were preparing a Brownfield Register for publication prior to the publication of the brownfield register regulations. This coincided with a Freedom of Information Request for a copy of Lancaster's Register of Brownfield sites.

4.4 As shown from the table, all five case studies are expected to experience significant population growth of 253% between 2022 and 2039. With significant population projections, each local authority is expected to deliver substantial amounts of housing growth over the period to meet the demand. This is expected to increase even more with the Government's recent consultation on the new method to calculate the objectively assessed housing need. Table 1 indicates that, with the exception of Bristol City, none of the case studies are delivering the annualised housing target and as such have a cumulative shortfall over their plan period, although the data below only reports on the shortfall reported during the last monitoring period.

Heartlands: Redevelopment of disused land in Pool, Cornwall, to provide 54 custom build plots as part of residential masterplan designed by HTA Design to deliver 144 homes for Carillion-Igloo and Coastline Housing.



**Table 1:
Summary**

	Bristol City	Manchester City Council	South Cambridgeshire	City of Lancaster	Cornwall
Estimated population growth	519,800 by 2026	615,000 by 2022	181,900 by 2031	154,455 by 2039	641,815 by 2039
Local plan status	Core Strategy (2011)	Core Strategy DPD (2012)	Emerging Local Plan (Reg 19)	Emerging District Plan (2011 – 2031)	Adopted Cornwall Local Plan Strategic Policies (22 November 2016)
Housing target over the plan period	26,000 (30,600 including small sites)	60,000	19,500	13,500	52,336
Annual housing target over the plan period	1320	3,333	975 ³⁴	675 ³⁵	2738 ³⁷
Net housing completions in 2015/16 ³¹	1,539	1,466	32.5%	2.75%	£2.00 psf
Shortfall on Local Plan target calculated ³²	+219	1,539	671	483	2,536
Brownfield Register pilot authority?	Yes	Yes	Yes	No ³⁶	Yes but decided not to publish
Average size of sites on Brownfield Register (ha)	0.35	0.92	13.18	2	n/a
% of Housing delivered on PDL in 2015/16 ³³	88.2%	87.1%	31%	80%	32% ³⁸

31. Unless stated otherwise, these figures have been taken from the Net housing completions reported in 2015/16 Annual Monitoring Reports published by each local authority.

32. Figures shown with 'do not take into account the overall cumulative under provision over the plan period.

33. Unless stated otherwise, these figures have been taken from the 2015/16 Annual Monitoring Reports published by each local authority.

34. This target is based on the emerging plan

35. This target is based on the emerging plan

36. The City of Lancaster produced and published their Brownfield Register following a Freedom of Information Request.

37. This figure changes each year over the plan period and therefore should not be viewed as a repetitive annualised target. The figure shown is the target set for 2015/16

38. This figure has been obtained through discussion and requests for information to local planning officers

5 . IDENTIFYING MORE BROWNFIELD SITES IN PRACTICE

5.1 The research methodology comprised the selection of case study local authorities across a good geographical spread, and telephone interviews based on a pre-agreed questionnaire. A list of standard questions were put to all participants focussing on topics such as engagement and notification, responsibility and logistics, monitoring and reviewing and process and criteria (See Annex 1). The questionnaire guided the interviews with each case study informed by the literature review covering the following themes:

- **Status of local plan**
To corroborate the findings from our desktop analysis and establish a logistical basis to start understanding
- **Responsibility & Logistics**
To establish an understanding of the logistics and functionality behind the brownfield register. Who carries it out; do they have the relevant expertise and knowledge?
- **Engagement and Notification**
To interrogate the behaviour and engagement of the local authority - how are they creating awareness? Could more innovative methods come into play here to aid the process and allow the market to work more efficiently?
- **The Local Plan Process (Monitoring)**
Where the brownfield register fits in with existing processes for identifying land. How effective is monitoring and does it form a basis for confident future predictions on housing?
- **Identifying Brownfield Sites – Process, Criteria & Size, Capacity**
What process to the LPA go through to identify / select / deselect sites

5.2 The findings of this report come from a small sample but the recommendations provide a useful insight in how to improve the process in which brownfield sites are identified for development. The findings and recommendations are informed by informal opinions from two specialists working in the area: the Federation of Master Builders and head of Housing and Communities at the London School of Economics.

5.3 Given the recent publication of the Brownfield Land Register Regulations, participants were keen to focus on the process local authorities undertake to assess and identify brownfield sites for development. The formal guidance to support local planning authorities with preparing and publishing brownfield land registers was published by the Department for Communities and Local Government on 29 July 2017 after the data for this project had been collected. The recommendations of this report are however still valid as to how the process for identifying brownfield sites can be refined to identify brownfield sites for development.

6 . FINDINGS

6.1 Responsibility - who identifies and assesses brownfield sites?

6.1.1 All five case studies confirmed that the planning policy team were responsible for developing the initial brownfield register pilot, or, as in the case of one local authority, the first published Brownfield Register. In one instance, the Register was prepared by the mapping (Geographical Information Systems GIS) officer sitting within the policy team, with support from a senior planning policy officer.

6.1.4 With the exception of the use of a specialist internal officer feeding knowledge into the assessment process, for example ecology or heritage, the process of creating a Brownfield Land Register appeared to be an activity led by planning policy. There seemed to be little opportunity for / the linkage to other officers in development management, housing or the environment.

6.1.5 One participant, who recently joined the planning policy team, indicated the value of sharing knowledge and best practice, and undertook online research to view other local authorities emerging methodology and presentation.

“It is a subset of our SHLAA, so we’ve got 2 or 3 officers working on the SHLAA and each will have a record of which is brownfield and greenfield and after that we will say is it on the brownfield register”

“At the moment, we have one officer who is really taking the lead on the project with my help”

Interviewees explain who has responsibility to identify and assess the sites to include in the Brownfield Land Register

6.1.2 While one respondent indicated that engagement across the organisation was in place, it was clear that for most the development of a Brownfield Register was undertaken by a small team of up to three individuals embedded within the planning policy department.

6.1.6 All local authority participants felt that the Brownfield Land Register would not speed up the development process, given that the local plan already provides lists of sites suitable for housing development. In this vein, the Brownfield Land Register appeared to be viewed as an administrative task rather than a proactive mechanism for intensifying housing delivery.

6.1.3 Most respondents indicated minimal levels of engagement internally at the local authority because the process of developing their register was interwoven with the process of producing the Strategic Housing Land Appraisal and Assessment (SHLAA). This has the benefit of being resource efficient.

6.1 Recommendation Responsibility - who identifies and assesses brownfield sites?

To improve the process in which local planning authorities identify and assess brownfield sites we recommend national Government encourage collaboration within local authorities to tap into skills across planning teams.

To support this, local planning authorities should:

- Use the process of developing and updating Brownfield Land Registers to develop multi-disciplinary cross-officer engagement. This could be carried out through cross team workshops where the assessment of sites are carried out for the purposes of part 2 of the register where development management, policy and heritage/ environmental officers could consider the minimum and maximum capacity of the site and appropriate actions and requirements to be addressed in Permission in Principle.
- Develop an internal communications strategy on the purpose of the Register across the local planning authority and housing departments.

6.2 The Local Plan Process – how will brownfield registers align?

6.2.1 Two clear themes were raised from discussions with the case study interviewees to understand the relationship between the local plan making process and the Brownfield Land Register. Firstly, the relationship of the Register to the evidence compiled as part of the local plan making process, and secondly the assessment of potential suitable sites to enter into the register against the strategic ambitions of the local plan.

6.2.2 The starting point for identifying suitable sites for the Brownfield Land Register, consistent in all case studies, was the 'Call for Sites', the first stage in the Strategic Housing Land Availability Assessment (SHLAA)³⁹.

“The SHLAA is our priority and it is about which sites we think are suitable for housing”

“I do not see the register necessarily informing the local plan process in the same way the SHLAA would have done.”

Interviewees discuss the relationship between the SHLAA and the Brownfield Land Register

6.2.3 Government guidance states that this “should be aimed at as wide an audience as is practicable so that those not normally involved in property development have the opportunity to contribute”⁴⁰. In most instances, the SHLAA 'Call for Sites' is advertised online and representations are accepted online and through the post. This process is undertaken by each local authority at a different time to align with review of the local plan. Respondents considered that this process would also be used to collate potential sites for the brownfield register. One respondent noted that the LPA would keep the Call for Sites open continuously to capture potential development that came forward, although it was not clear if they would update the brownfield register accordingly if required.

39. The Government requires Local Planning Authorities to undertake in order to understand land availability for the future supply of housing and economic land known as a SHLAA or Housing & Economic Land Availability Assessments (HELAA).

6.2.4 Two case studies reported their confidence in relying on the Call for Sites approach to inform the brownfield land register. This was owing to the same sites coming forward each year and the extensive information that they already have on these sites due to the research that was completed as part of the urban capacity studies, under the former Planning Policy Statement 3 (PPS3). However, given this PPS was replaced by the NPPF in 2012, it is possible that these urban capacity studies used to understand the development potential of a site will be out of date. Since the withdrawal of the PPS, guidance has not been provided to indicate how local authorities should calculate the development capacity of a site.

40. Paragraph: 013 Reference ID: 3-013-20140306 Revision date: 06 03 2014

6.2.5 During the interviews, participants were asked if they would consider other methods such as the deployment of officers to actively look for potential sites on the ground, or the use of internal or external mapping systems to conduct desktop searches. All case studies responded that this type of research would normally only be undertaken once a potential development site was identified and had passed the initial assessment stage. One respondent said that they knew all the brown and greenfield sites in their area as they had an internal database listing them.

6.2.6 Paragraph 19 of the “frequently asked questions” available from the Government’s website, notes that “the process of identifying suitable sites for the brownfield register is aligned to the Strategic Housing Land Availability Assessment process” to proactively support the plan-making process⁴¹. However, respondents mostly viewed the Brownfield Register as another administrative task and a duplication of the information contained in the SHLAA and local plan allocation documents. A desktop review of the pilot registers demonstrated this, as a significant number of sites contained within the brownfield registers, in all case studies, had existing or lapsed planning permission.

“I would have thought that sites that are allocated in the development plan for ... there would be no reason why they couldn't be included as PiP sites (or on Part 2 of the Brownfield Register).”

“Brownfield sites that have been identified in the emerging allocations plan, we would then need to identify them as part of the register.”

“If councils are allocating all their housing land supply then presumably all their brownfield register effectively becomes allocated already.”

Interviewees discuss the relationship between the Brownfield Land Register and the Local Development Plan

41. Paragraph 19 <https://www.gov.uk/government/publications/brownfield-registers-and-permission-in-principle/brownfield-registers-and-permission-in-principle-frequently-asked-questions>

6.2.7 For one interviewee, the general approach was that the SHLAA/ HELAA would act as the complete record of the land supply in the district or borough for development, with some sites feeding into the Local Plan, whilst some other sites would feed into Part 1 or Part 2 of the Brownfield Land Register. This would enable the Brownfield Land Register to be active and in place where perhaps the LPA is undertaking a review of its local plan.

6.2.8 Overall the respondents seem to be suggesting that the Brownfield Land Register would not only be an output of the SHLAA, but would be informed as an output of their Local /Allocation Plan. This would mean that the sites identified in the Brownfield Land Register are likely to be existing allocations and therefore the Brownfield Land Register would provide an additional record of these suitable development sites. This was reflected by the fact that there was consistent evidence throughout the case study interviews that respondents were sceptical around the value of the Brownfield Land Register and its potential impact upon improving delivery. This was highlighted by three respondents who considered the SHLAA as the most important source of information on green and brownfield sites and this was summed up by one respondent who noted that “The SHLAA is our priority and it is about which sites we think are suitable for housing”.

“With housing you can get a better feel for the current context and height of the building, what are the particular constraints on the housing sites but when it’s more complicated inner city centre sites it’s quite tricky. We may have working estimates but yes that’s going to be problematic in terms of the brownfield register – estimating capacity and mix of uses. Especially in those city centre locations or a complicated regeneration area.”

An interviewee’s perspective on the challenges of estimating the development capacity for inner city sites comprising of a mixture of uses

“When we are looking at the urban potential of that area we are looking at different things beyond intensifying bits of urban land that are currently underused or derelict or whatever. So we are looking at opportunities across the city.”

An interviewee’s perspective on the need to approach the identification of brownfield sites strategically in order to deliver the objectives of the Local Development Plan

6.2.9 The respondents were, however, positive with regards to the role of sites contained in Part 2 of the register and the potential application of Permission in Principle (PiP), and assumed this would be attractive to certain developers to provide a high level of assurance about sites’ suitability for housing. For two local authorities, it was suggested that PiP may help to specifically bring forward sites owned by the local authority.

6.2.10 Some respondents however raised concerns around the compatibility of the Brownfield Land Register and PiP alongside implementing the strategic objectives of the local plan. Some of the respondents were hesitant that some of the brownfield sites which come forward through this process may not necessarily accord with the strategic objectives of the local plan. A key point one of the participants highlighted was that a local planning authority may find it difficult to ensure that development occurs in a “sustainable” location, as certain brownfield sites – particularly in

rural areas – will not necessarily fall within the hierarchy of settlements identified for development in the local plan. Participants also expressed some concern that PiP would weaken the LPA’s position to negotiate to achieve a high quality development or mixture of uses on a site more in line with the strategic aspiration of the local plan rather than a housing-led development. Paragraph 019 of the statutory guidance states that “local planning authorities must also have regard to relevant policies in their development plan document and ensure that a residential use is appropriate for the location and the site can be made suitable for its new use”. Although this was reiterated in the frequently asked questions published on the Government’s website prior to the publication of the formal guidance in July 2017, the comments raised by the participants highlight that there is the need for DCLG to publicise the guidance more in order to address local authority concerns about the compatibility of the Brownfield Land Register and implementing the strategic objectives of the Local Development Plan.

“We haven’t really thought about that but off the top of my head I can see there is a potential to link with the right to build. We are a vanguard authority with the right to build so that might be one area where we can link up.”

An interviewee’s perspective on linking the activity to compile Brownfield Land Registers with other planning initiatives

6.2.11 The work local planning authorities need to undertake to review and assess a site before entering onto the Brownfield Land Register was raised as concern by the participants we spoke to who also raised concern that this process (alongside PiP) could result in potential income loss, usually generated through the pre-application process the local authority. Whilst one of the intentions was for Brownfield Land Registers to reduce the burden for of the quantum of information developers need to provide to establish if the site is suitable for residential development, the activity required by the local planning authority to compile the Brownfield Land Register effectively may heighten existing resourcing issues local planning authorities face.

6.2.12 One local authority was, however, very positive about the opportunity to link the Brownfield Land Registers with other planning initiatives such as the Right to Build. Although the local authority had not yet developed this idea any further, they said that there could be the opportunity for authorities to use the brownfield land registers to help identify potential sites to identify potential plots for those who have expressed an interest on their self-build and custom housebuilding register⁴². There could be the opportunity for the Brownfield Land Register to support other planning initiatives and reforms however the respondent had not tested this any further at the point of research⁴³.

6.2.13 One of the respondents highlighted that the focus on redeveloping brownfield land for housing has given a noticeable increase in the number of owners of employment land who are now promoting their sites from employment to residential uses. It appears that the role of the Brownfield Register in the decision making process, in particularly the relationship with the local development plan, needs clearer guidance to enable local planning authorities to ensure residential growth is sustainable. Another concern expressed was that some brownfield sites may have a cultural value to local communities, for example an old airfield which is used by local people for recreation. The local planning authority would need to consider the natural environment, heritage and the amenity value of the brownfield sites before including on the Register.

42. Self-build and Custom Housebuilding Act 2015. Section 2(1) place the duty on the relevant body to have regard to each self-build and custom housebuilding register that relates to their area when carrying out their planning, housing, land disposal and regeneration functions.

43. <https://www.gov.uk/guidance/self-build-and-custom-housebuilding>

6.2 Recommendation

The Local Plan Process – joining the dots with the Register

In order to add value to current local plan processes, local authorities must be motivated to go beyond the current call for sites process to ensure that the Brownfield Land Registers identify the maximum amount of suitable brownfield land. There is a need to reimagine the Brownfield Land Register not just as an administrative task but a pro-active tool to encourage housing delivery.

The statutory guidance published in July 2017 provides information to local planning authorities to prepare and publish Brownfield Land Registers, but it does not provide clarity on the purpose of the register, and the intention of the Register is to increase the number of homes delivered on suitable brownfield sites. **In order to achieve this we recommend that Planning Practice Guidance on the Registers should be amended to provide a clear link to the overall aim of the Brownfield Land Register to increase the supply of new homes on suitable brownfield land.**

DCLG should consider the relationship of the Brownfield Land Register with other initiatives to diversify the housing supply, setting out in further guidance how the registers will relate to other local plan documents to ensure that the register does not just become a sub-set of the Strategic Housing Land Availability Assessment.

National Government should also clarify the Register's relationship with both the evidence base of the local development plan (e.g. the Strategic Housing Land Availability Assessment) and the application of the local development plan policies during the decision making process. Guidance should also be provided on the relationship of the Register with other initiatives to diversify housing supply such as the self-build registers and local authorities should be encouraged to explore the integration of these different tools.

The purpose of the Brownfield Land Register may be valued more once the value of "Permission in Principle" has been evidenced and is effective.

6.2 Recommendation (continued)

The Local Plan Process – joining the dots with the Register

The current Call for Sites process appears to rely solely on the developer or land promoter to bring forward a potential development site the local planning authority, unless the local planning authority proactively identified an area. Local authorities should be encouraged to identify new potential sites, through innovative and proactive engagement processes.

The statutory guidance suggests local planning authorities should consider how they can identify new potential brownfield sites within "well-established processes" such as the SHLAA, but also suggests the local planning authorities should consider "whether any additional procedures would help identify sites".

The Government should share examples of new procedures or innovative processes, to ensure that the Brownfield Land Register is not "absorbed" into the current procedures. Good practice examples should be shared on how authorities are working proactively with other local authority officers and external partners, including community groups, to identify suitable brownfield sites for development, rather than being solely led and informed by developer interest.

6.3 Accessing and recording sites in the Register

6.3.1 Four out of the five case studies participated in the Government's Brownfield Register pilot scheme (Table 1). Those case studies, which had published a Brownfield Land Register, presented it through a downloadable Excel or PDF list. Three of the five case studies also provided an online mapping tool to help users find sites and locate relevant information.

6.3.2 For those case studies using interactive mapping platforms, the information on brownfield sites was well presented, enabling users to immediately look at sites within their local area and quickly find information about the site in terms of size, planning history and potential capacity. One authority created their register using a central mapping service, which helped to ensure the data and information entered was consistent and accessible for each region/area.

6.6.3 Where Excel and PDF documents were used in addition, or instead of the mapping platforms, these files contained information on sites, such as the location, links to previous planning permissions, size, address, following the format of the Department for Communities and Local Government requirements. Overall, due to the number of fields, these tables were often difficult to navigate.

It would be more accessible if a site plan was provided alongside the basic information such as size, location, ownership and planning history, similar to that of a site appraisal form used as part of the Strategic Housing Land Availability Assessment (SHLAA) process.

6.6.4 One participant highlighted the difficulty with maintaining up-to-date information given that they would be using the Strategic Housing Land Availability Assessment (SHLAA) as the process to collect sites and that this activity only tends to happen in cycles based on the need to review the local development plan. This participant also foresees that the implementation of the Register and continual updates on the progress of the sites is likely to be a challenge as the development management teams use a different software system to process applications compared with the software used to compile the Register.

6.6.5 One respondent also queried how local authorities would overcome and manage data protection issues that may arise due to the level of land ownership that they collate to inform the register to then share internally and with the public. One authority highlighted undertaking lots of "land registry" searches to inform their Register, whilst another confirmed that they have purchased all of the Register data for the area to assist with obtaining necessary information about land ownership to identify potential sites.

6.3 Recommendation Accessing data and recording sites in the Register - opening up the process

The management and presentation of the brownfield registers in an accessible way is essential to ensure that the Registers can be used effectively.

To support local authorities identify brownfield sites, we recommend that national government implements the proposals to improve HM Land Registry set out in the Housing White Paper, in February 2017. This will open up HM Land Registry digitally and free of charge, ensuring the registration of publicly held land in the areas of greatest housing need being registered by 2020, with the rest to follow by 2025.

Local authorities should make full use of the Data Standard template provided by the Department for Communities and Local Government (DCLG) and explore different ways in making the information contained accessible to all. For example search functions could enable user to filter their search on finding sites in a particular area, or a particular size or ownership. A comment area could also be included to allow the public to update information or add sites, which could be useful when the Registers are reviewed.

We also recommend that local authorities develop integrated online mapping, including a postcode search that includes the Brownfield Land Register alongside other information such as designated sites and flood zones.

Improving access to and integrating digital data will also better equip planning officers to understand the land capacity of brownfield sites in their area.

Banbury Park: A residential-led masterplan to provide 349 new homes and apartments on a former industrial site in Waltham Forest for Higgins Construction on behalf of Circle (Now Clarion Housing Group).



6.4 Engagement in the Register

6.4.1 Engagement with the wider public, community and/or neighbourhood planning groups appeared limited in the production of Brownfield Land Registers despite community groups often being keen to prioritise the redevelopment of brownfield sites in order to prevent the unnecessary loss of greenfield or green space, and / or to remove eyesores or contamination⁴⁴. When discussing the promotion of the Register, the general assumption amongst respondents was that the audience for the Brownfield Land Register would be a local developer.

example, additional guidance and sharing best practice on additional consultation and engagement beyond that of the Strategic Housing Land Availability Assessment (SHLAA) activities and more clarification about the benefits and the role of the Register. General community engagement around the process of compiling a Register and the implications of Permission in Principle is crucial to build up relationships and understanding of this alternative route to secure planning consent for new homes.

“If developers are interested they know we do a brownfield register and can find it, so what are the advantages in spending resources doing any more publicity”

An interviewee's perspective when asked about the promotion of the Brownfield Land Register

6.4.2 It was also felt by one participant that raising awareness around the brownfield register was not high on the agenda for local authorities as the activity to compile the Register would be very similar to that of Strategic Housing Land Availability Assessment (SHLAA). The promotion of the Register “wasn't on the agenda” as they could not quite understand the benefit of the Brownfield Land Register above that of the SHLAA. Another respondent also mentioned that there was a lack of resources to “publicise things, so we just put it on the website”. Therefore, in order for the register to be effective, support needs to be provided to local authorities beyond that of the Strategic Housing Land Availability Assessment (SHLAA) activities. For

“The council is working with its landowners, landholdings and other developers to put in a development partner from the Far East and we are trying to put it forward, which is primarily brownfield, and it probably wouldn't happen if we weren't promoting it.”

An interviewee highlights the key role Council's play in promoting the redevelopment of brownfield land

6.4.3 With regards to engagement with neighbourhood planning, overall the case studies expressed that there were existing mechanisms in place between the local authority and the neighbourhood plan groups to facilitate and feed into the production of the local authority's Brownfield Land Register. However, when specifically discussing the relationship between the production of the Brownfield Land Register and engagement with Neighbourhood Planning Areas, via local forums, it was clear that across the case studies, the type of engagement varied. For example, for two

6.4.5 During a discussion with another respondent, they sought to develop collaborative ways of working to link neighbourhood planning areas with the development management process in general, rather than just focusing on the production of the Brownfield Land Register. This respondent anticipated that the forthcoming guidelines to support the new Brownfield Regulations would contain further guidance on the application of PiP to local plan making including allocations in neighbourhood planning, but it was expected that:

“If some of the neighbourhood plans bought forward identified sites, we will need to feed these through our SHLAA/HEELA as well. Some of those might be suitable brownfield sites so they would feature in the brownfield register potentially”

respondents, it was noted that they would seek to share information about sites that they had gathered during the SHLAA in order to assist with the potential allocation of sites in both the Neighbourhood Development Plan and the local authority Brownfield Land Register. In observing another response, the relationship between the neighbourhood planning area and the Brownfield Land Register seemed to be tied into the Strategic Housing Land Availability Assessment (SHLAA) (or Housing and Employment Land Availability Assessment (HELAA)) assessment process before being allocated to the neighbourhood plan or the Brownfield Land Register.

6.4.4 For another respondent, however, it was clear that the Local Planning Authority felt it would need to offer more “advice on the implication of the Brownfield Land Register generally. So it would be broader than just the Register in terms of the ‘call for sites’. This implies that the involvement of neighbourhood plan groups in the production of the Brownfield Land Register is likely to be more resource extensive.

“[Sites] allocated as brownfield sites (through the plan making process) would then get PiP. There is talk (internally) that neighbourhood plan and local plan allocations will be granted PiP.”

An interviewee's perspective on the relationship of Neighbourhood Development Plans and the Brownfield Land Register

44. Neighbourhood planning allows communities the opportunity to promote growth and shape development through the production of Neighbourhood Development plans, Neighbourhood Development Orders and Community Right to Build Orders.

6.4.6 It was clear that there is the expectation that community leaders or forums for each neighbourhood planning areas would approach the local authority with sites for inclusion on the brownfield register, rather than by the local planning policy officers approaching the groups to engage in this activity separately. One local authority recognised that additional publicity around the register will use more resources. This further contributes to the isolated nature in which brownfield land registers are compiled as discussed under the section on 'Responsibility'.

6.4.7 These responses also concur with the earlier findings highlighting that there is a lack of understanding by respondents about the differences between the purpose of the Local Plan process and the Brownfield Land Register. The majority of respondents participating in this case study were however part of the pilot scheme and therefore were not necessarily required to promote the Register or work with neighbourhood forums on their production.

6.4.8 In order for the Brownfield Land Registers to incentivise and increase the supply of land for new homes as set out in the Government's initial intention, increasing participation and engagement in the process is key. Following the publication of the statutory guidance in July, there remains a lack of suggestions around how to increase engagement.

6.4 Recommendation

Engagement in the Register – getting the message out

Proactive engagement and widening the audience base will ensure the Brownfield Land Registers are as comprehensive as possible. Additionally community participation will increase support for proposals.

In order to encourage we recommend that the Government provide further guidance on how local communities can engage with the production and promotion of the Brownfield Land Register, including through engagement with neighbourhood planning groups.

The Government should further support technological innovation in the sector to build applications that support the process of compiling a Register. Increasing citizen influence in policy making and planning decisions is highlighted as a key challenges in Catapult Cites' report on 'Prototyping the Future of Planning'⁴⁵.

Existing tools, for example "Sticky World" a multi-media participatory website, could be explored to test whether these tools can feed into the process of identifying potential brownfield sites for development. There is also the opportunity to draw on current research being undertaken by organisations around how to digitise planning activities, for example the 'Future of Planning' research project by Catapult Cites, to incorporate technological innovation in the site identification process⁴⁵.

Local authorities, alongside other stakeholders and innovators, should also explore and develop cost effective tools to engage a wider range of stakeholders with the promotion and production of the Register. This could be through the use of traditional and social media and local events such as walks that map and evaluate potential brownfield sites via community organisations, neighbourhood forums and tenant associations.

Gathering evidence for neighbourhood planning provides an important channel through which local people can engage with the production and promotion of the Register. We recommend that local authorities encourage neighbourhood planning groups to get involved in the production of the Register. They should also consider ways to engage groups outside of neighbourhood planning: technological innovation could help with this.

⁴⁵ <http://futurecities.catapult.org.uk/future-planning-research/>

6.5 Developing the Register

6.5.1 This section presents the findings from the case studies on the internal organisation of the team, expertise and the process that they took in preparing their current Register and how they are planning on developing a new register in line with the new Brownfield Land Register Regulations. Aspects concerning the criteria, size and capacity are presented in later sections.

6.5.5 One respondent raised concern about how much detail was needed to go through to the suitability of sites included in Part 1 of the Register. Elsewhere interviewees indicated that for the purposes of developing Part 2 of the Brownfield Land Register, the team were seeking to develop a process of engagement with development management officers to provide input on the scope and wording of PiP for each site. However, this interviewee along with another noted that Development

“Bring sites forward by exploring the challenges to them and it could well be that there are sites, which are not attractive to the market but if we were able to resource the investigation and solutions to those challenges it would bring more sites forward and give more people a reason to go ahead.”

An interviewee's perspective on the challenges of bringing forward more and better sites forward

6.5.2 Most case studies had a team of between two to five officers working specifically on the Brownfield Land Register. The issue of resourcing was only discussed explicitly by two interviewees. However in one particular case, the officer reported that they were moving to develop a shared planning service with a neighbouring authority in order to better resource the local plan process and smaller projects like the Brownfield Land Register.

6.5.3 One case study developed its pilot Brownfield Register following a successful bid with other local authorities in the region. While each local authority maintains their own separate list of sites, these are accessible to the public via an Open Data Instructure Map.

6.5.4 Some of the case studies had begun to think about how work on the Register might be resourced and used in the future. All case studies highlighted the need for additional support in terms of expertise and the upskilling of existing team members in order to help them implement the Brownfield Land Register in accordance with the new regulations.

Management departments were very under-resourced and relied upon the pre-application or application fees to support their work. The interviewees needed clarity from the national Government on how development management officers will be resourced sufficiently, both in terms of people and finance, to support and inform the work of policy officers compiling the Brownfield Land Register.

6.5.6 One case study had already started the process for recruiting and upskilling of their team. It was noted that in an attempt to grow the team to manage the development of the Brownfield Land Register, someone with development management and policy experience will be recruited particularly noting the importance of incorporating officers with experience in the planning decision making process to feed into Part 2 of the Register. The interviewee went on to note that other members of the team could drop in on the development management officers to pick up knowledge as required.

6.5.7 Development management skills were not the only area where interviewees identified the need for better cross department engagement or areas of upskilling of policy teams. As one interviewee summarised the resourcing requirement:

“

“Simply having resources to help bring development sites forward would be better overall. (They would) support investigations on the deliverability of sites, so they would support in a more in-depth way the work that is done through the SHLAA with a view to achieving developable sites”

An interviewee's perspective on the challenges of bringing forward more potential development sites forward

6.5.8 For this respondent, the process of completing the SHLAA was quite indiscriminate when it came to problematic sites, producing results that were “dissatisfying to the public as it is only at a certain level” because they lacked an “in-depth look at each site”. Front loading investigations into the deliverability of challenging sites could help unlock sites for development and make them more attractive to small and medium size developers, thus encouraging diversification in the parties that deliver new housing. Local authorities with additional resource could undertake this exercise themselves. However, an open data approach whereby the local authority asks the public and/or developers to provide information on issues such as accessibility, design, flooding and infrastructure could overcome concerns about resourcing, while also encouraging ongoing engagement with the public and others on bringing sites forward for development. However, local authorities will need to have in place quality control measures to check the accuracy of public/developer responses, in order to ensure the site is suitable and achievable and therefore along with other criteria meeting the requirements for Part 1 of the Brownfield Land Register.

6.5.9 For another respondent, they identified the need for better engagement by officers specialising in the natural and historic environment and GIS support. They considered that each site entered into the Brownfield Land Register could be supported by a basic proforma specifically containing “detailed ecological assessments and historic assessments in terms of their suitability to be put on Part 1”. Although it wasn't suggested that planning policy officers needed to develop these skills, participants did note that specialist input was essential to produce an effective Brownfield Register in their authority. This is particularly true where local authorities cover large areas of land that which comprises of have ecological, historic or landscape sensitivities

6.5.10 The findings highlight a number of challenges around the resourcing of local government planning departments to produce a Register, but also the importance of internal collaboration between planning policy officers and other specialists within the local authority. There is opportunity for local authorities to develop and share resources to help fill gaps in technical expertise, particularly where authorities are working towards a regional partnership, or cooperating on larger strategic sites to meet their housing need.

6.5.11 The concerns around resourcing are likely to be further exacerbated following the recent publication of the statutory guidance relating to the preparation of a Brownfield Land Register. This guidance suggests local authorities will need to decide if a Strategic Environmental Assessment needs to be prepared and if further environmental assessments need are needed to take into account the cumulative impact of development as new sites are added to the Register.

6.5 Recommendation Developing the Register – sharing skills

Further to the approaches recommended in previous sections, collaboration and engagement can enable accurate assessment of development potential, in particular of a site.

We recommend that local authorities consider ways to upskill planning policy teams. This can build on suggestions made by the interviews such as recruiting team members with a development management experience and work shadowing colleagues determining planning applications. We also recommend that engagement continue throughout the process in order to compile an effective Register.

Local authorities should also consider working with officers with specialist knowledge including GIS, ecology and the historic environment. Planning policy teams could consider developing a joint working group with other local authorities to share officers' knowledge. Neighbouring planning authorities may also look to share funding or officers who have been appointed to produce Brownfield Land Registers.

6.6 Identifying sites classified as brownfield land

6.6.1 Almost all of the case studies followed the National Planning Policy Framework (NPPF) definition for identifying and defining brownfield land. However, most expressed their concerns about the impracticalities of applying this definition when identifying suitable sites for development. For one respondent this added particular difficulty in relation to the local context - where remaining brownfield land could only come forward with elements of greenfield land included. This highlights the conflict around the purpose of the Brownfield Land Register – whether it is to provide accurate data on the amount of brownfield land available for redevelopment, or whether it is a planning mechanism to build new homes.

6.6.2 In urban areas, two case studies also discussed the need to expand the definition of brownfield land to include open space, now often defined as greenfield land. It was noted by one respondent from a city with some historic industrial characteristics that some greenfield sites within the settlement boundary were in fact former industrial sites - and of low social and environmental value owing to contamination. However, as the former structures have become blended into the landscape there are areas of the site that, if the definition of previously developed land was strictly applied, these parcels would be considered greenfield and excluded from the Brownfield Land Register. The stringent definition of brownfield and its application leads to some sites being excluded from the Brownfield Land Register.



“...we need to find a way of a) identifying the sites and b) presenting it in a way that is meaningful for anyone who is going to want to interpret the data.... For example, how much greenfield land should be included or whether it's 100% brownfield”

An interviewee's response to the challenges of identifying suitable brownfield sites to include on the Register

6.6.3 Elsewhere, the problem of applying the definition of brownfield land was also apparent. Around 25% of one authority was designated as Green Belt and comprised of significant areas of high quality agricultural land and mineral resources that require protection. The officer reported that due to the location of some of the brownfield land in their authority, redeveloping these sites could have implications in increasing car use. As such, they considered that some greenfield land would be more sustainable to develop if, for example, it was adjacent to an existing village with sufficient local services. This respondent also highlighted concerns that the conversion of community or employment buildings on brownfield sites in villages for housing could potentially lead to the loss of vital community infrastructure such as local shops and schools.

“The question of balance was relevant here: wouldn’t it be better to develop certain suitable greenfield sites close or within the village boundary, which due to their locality and context would be more sustainable than the brownfield sites left over? We have sites that are brownfield, which are the most heavily contested sites by our local communities in terms of not wishing to see them developed and wishing to see them formally allocated as open space. These sites would appear on the brownfield register but they could really cause a commotion and upset in local communities. Yes, it is previously developed land but it is where the community play, where the community take an interest in nature and so are not sites that we would necessarily wish to proceed with, again just illustrating the nonsense of assumption that previously developed land is always preferable”

An interviewee’s response to the challenges of identifying suitable brownfield sites to include on the Register

6.6.4 It was also reported by one interviewee that there had been difficulty with identifying sites which were 100% brownfield, owing to the land delineation characteristics of the authority. It was considered that sometimes it was necessary to include some greenfield land to facilitate good design and access to brownfield land. This respondent suggested that further guidance on defining sites was essential for rural authorities where

such difficulties played an important part in determining the viability of bringing brownfield land forward for residential development. This participant highlighted that if the sites entered on the Brownfield Land Register needs to be 100% compliant with the National Planning Policy Framework (NPPF) definition then the register will have limited effectiveness.

6.6.5 One of the participants highlighted that from a local planning authority point of view there is also a difficult balance to achieve in ensuring that development remains ‘sustainable’ as certain brownfield sites – particularly in rural areas – will not necessarily fall within the hierarchy of settlements identified in the local plan. As such, there is concern about realistically achieving compatibility with the local plan aspirations and that PiP will weaken the Local Planning Authority position to negotiate to achieve a high quality or mix of uses more suitable to deliver the strategic aspiration of the local plan rather than a housing-led development. One respondent highlighted how the focus on brownfield land had given rise to owners of employment land promoting parts of their sites for a change of use to residential.

Of course Local Planning Authorities need to remain pragmatic in these instances and assess these sites based on an appropriate evidence base of the need and vitality of employment uses.

6.6.6 Following these interviews the Statutory Guidance published by the Government confirmed that Local Planning Authorities should apply the definition of previously developed (brownfield) land as set out in the National Planning Policy Framework. Paragraph 011 reiterates that greenfield land is not appropriate for inclusion in a brownfield register and if it is unclear ‘only the brownfield part of the site should be included in Part 1 of the register and considered for permission in principle’.

6.6 Recommendation Identifying sites classified as brownfield land – best practice

The full identification of the full range of brownfield sites is essential to fulfilling the full potential of brownfield registers.

In order to ensure that suitable sites with both greenfield and brownfield elements are not left off the Register, we recommend that local authorities record in the notes section of their Brownfield Land Registers where greenfield land is required to ensure the site is viable.

We also recommend that if the local authority is unsure whether to include a site on the Brownfield Land Register, that it is recorded in the annex supporting the Register.

The Annex of the Register should also be used to record sites that have been excluded for other reasons, for example ecological or amenity value and the site would be better retained for employment uses.

In order to encourage the full identification of brownfield sites the Government should amend the National Planning Policy Framework to encourage a wide range of urban sites to come forward for development. The focus should be on urban land close to good public transport links and the results fed into the brownfield register as appropriate.

6.7 Applying size thresholds

6.7.1 In terms of size, the majority of the local authorities say that they used to draw the line at 10 dwellings but that the new regulations have sparked a change in behaviour and most will now lower the threshold to five dwellings or 0.25 hectares across the board. This size threshold is not new as the online government guidance for Housing and Economic Land Availability Assessments (HELAA), updated in March 2014, recommends that the assessments should consider 'all sites and broad locations capable of delivering five or more dwellings or economic development on sites of 0.25 hectares (or 500 square metres of floor space) and above. Where appropriate, plan makers may wish to consider alternative site size thresholds⁴⁶.

6.7.2 However, since the publication of the Regulations, four of the case studies anticipated that the identification of sites would now focus on the criteria stipulated in the Brownfield Land Register, which meant that sites of larger than 0.25 hectares, or capable of generating five or more units, would be prioritised. However, two case studies commented that they did not have the resources to undertake detailed assessments of these sites in accordance with their HELAA process.

6.7.3 There is also the potential that a stringent criteria for sites to be considered for the Brownfield Land Register could result in those sites which are smaller than the 0.25 hectares being discounted at the earliest stages of the site filtering process. For example, three case studies noted that for the HELAA process, they would be adopting the definition of a small site used in the pilot scheme (at least five homes or at least 0.25 hectares) while one case study mentioned that the smallest sites would be those able to accommodate a minimum of 10 homes.

6.7.4 Across the case studies, these thresholds were used for practicality reasons (discussed further below in the findings under section 6.8), but this could result in some sites being discounted as unsuitable owing to size alone.

6.7.5 One respondent noted that they tended to focus resources on some brownfield sites over others if it could be demonstrated that market investment in the area was already there or it was going to increase. In their comment they noted that given that there was a drive to ensure the delivery of homes to meet the annual delivery target, it was necessary to focus on existing strategic regeneration locations, which have the "best prospect of things happening".

6.7.6 In discussing what this meant, the respondent used examples of active developers who "share your (the local authority's) development vision". In some instances the sites in strategic locations would receive more resources across the local authority's planning team to ensure that development could be brought forward quickly and more cost effectively. Another incentive for identifying brownfield land strategically was if local authority owned land and engaged in housing delivery. In this instance the interviewee highlighted that as a consequence, less favourable sites which are located outside of key strategic sites may receive less resources, stating "these sites might have had planning permission in the past, lapsed and sat around for ages... we've been doing nothing to prevent them (coming forward and being developed), but the market isn't quite there".

6.7.7 As shown in earlier findings, the Brownfield Land Register has the potential to encourage a wide variety of individuals and organisations to increase the speed of development, but if the starting point for producing a Register is with the Housing and Employment Land Availability Assessment (HELAA), then there is a risk that some sites will be ignored because of size and not brought forward for development. In the same way, a focus of resources on sites within existing strategic location will only reduce the number of sites that could otherwise come forward outside strategic locations.

6.7.7 The representative of a trade body confirmed that local authorities are chronically under resourced leading to smaller sites being discounted earlier in the local plan making process. This introduces uncertainty and higher risk for small/medium business that may be considering bringing forward smaller sites for development.

"Councils don't have that kind of resources for hundreds of small sites in an urban area."

6.7.8 However the introduction of Brownfield Land Registers was highlighted by an interview as an opportunity to introduce certainty by securing permission in principle for those sites on part 2 of the Register. This would be particularly valuable for small sites.

"Local plans allocate sites that tend to be overwhelmingly larger strategic sites and from our members' point of view, from the point of view of an SME, puts them at a disadvantage in bringing forward smaller windfall sites on which the certainty of getting planning permission is much lower. There is a much higher degree of uncertainty to whether you will end up with a permission or not."

An interviewee comments on the value the Brownfield Land Register could bring to provide certainty, particularly on smaller development sites, that the principle of residential development will be supported

6.7 Recommendation Applying size thresholds – identifying small sites

The application of a strict size threshold, whilst reducing pressure on resources, could limit the contribution that can be made by smaller sites, particularly in urban areas. We recommend that the Government amend the Town and County Planning (Brownfield Land Register) Regulations 2017, and associated Planning Practice Guidance, to encourage the inclusion of sites below the current threshold. Resource pressure and a focus on procedures related to the HELAA could result in suitable smaller brownfield sites being overlooked.

6.8 How is development capacity calculated?

6.8.1 Overall, this research has found that capacity is calculated in different ways amongst the case studies. In many instances, sites with planning permission are included, and in these cases there was an over-riding reliance on the number of units that were included in the latest planning permission for the site. The case studies that participated in the Government pilot also used Housing and Economic Land Availability Assessments to identify sites for the Brownfield Land Register. This was informed by information received from the landowners, as well as using density calculations derived from local policy, to estimate the development capacity of a site.

6.8.2 Two case studies noted that estimates provided by developers would be verified internally and that officers with experience of site appraisal would be able to provide support to accurately calculate capacity. Two case studies noted that in future, new sites suitable for the Register that come through the Housing and Economic Land Availability Assessments would be subject to a more rigorous assessment to calculate the capacity of the site.

6.8.3 In describing this method, one case study noted that for larger sites, they would assess the immediate constraints and apply the adopted local plan density standard for the site, with allowances for the shape of a site or other known constraints, to calculate the housing capacity.

6.8.4 In another response, it was noted by the interviewee that they used a flexible theoretical capacity calculation based on local plan capacity targets, but then:

“Using the skills and experience of our officers and looking at individual sites in terms of their surroundings, their context, particular constraints on sites we will come up with a slightly more informed estimate of the capacity”

An example of one interviewee's approach to calculating the development capacity of a site

“With the larger sites you need to factor in your roads and your infrastructure ... shape of the site as well, because if it is an obscure site you might lose some of the edges as if it isn't square you can't necessarily fit development in, in quite such a compact way So we took our constraints and what we were left with, we applied a density and another multiplied depending on how much infrastructure would be needed on the scale of site.”

An example of one interviewee's approach to calculating the development capacity of site

6.8.5 Whichever method used, most respondents stated that more often than not, their method of estimating site potential was reasonably accurate. Respondents were asked how this was tested and most pointed to the receipt of new applications which came in with permission for the same or very similar unit numbers to those estimated in the capacity assessments that had informed the Housing and Economic Land Availability Assessment activity.

6.8.6 During the discussion on the process of identifying the capacity of potential development sites, the respondents were asked whether they foresaw any challenges in applying their capacity calculations to new sites being added to the Brownfield Land Registers. While most respondents could not see any issues, two raised concerns about the impact of using PiP on sites within Part 2 of the Register. For these case studies, the urban nature of their local authority meant that many of the sites that they foresaw as being appropriate for Part 2 would be located within mixed-use development areas or masterplan schemes. These may not be residential-led development schemes and they may not be able to anticipate the capacity for housing without being informed by design feasibilities provided by the promotor of the site.

6.8.7 According to the latest guidance 'Permission in Principle' can be granted for housing-led development, providing the main purpose of the development is the provision of housing. One respondent noted however that applying PiP was difficult on such sites because of the wider strategic aims. Development capacity can change over time and there was a need to respond to this. This respondent focused specifically on design and mixed uses, which would include aspects relating to site capacity and density:

“So if you want to try and negotiate really high quality design or mix of uses with wider strategic aims in mind, more employment than you would otherwise have, then having PiP for housing will not be helpful. We’ve been really careful not giving out permissions if we don’t think they’re good.... So you could have PiP on a city centre site in London and you could make assumptions to earn a fortune and as soon as someone’s paid for that land it becomes increasingly difficult to get them to deliver something of high quality.”

An interviewee’s perspective on site capacity and design quality to calculating the development capacity of site

6.8.8 This respondent also noted the challenges of using PiP to record the minimum housing capacity in changing market conditions. During this aspect of the conversation, they used an example of a non-strategic area of their authority to discuss the point. They considered that PiP effectively acted like a site allocation by promoting it for development, which could be used for sites outside strategic locations. However, if market interest in the area grew, then the local authority would

be concerned about their ability to remove or revise PiP within the three year time period to respond to design quality e.g. high density housing strategies that they sought to influence. Perhaps one way to overcome this would be to ensure that PiP incorporates a set of design codes, which applicants will need to respond to when submitting technical details consent applications. However, this would have further resource implications for local authorities.

6.8 Recommendation

How is development capacity calculated? Spotting the opportunities

While local authorities are confident about their ability to assess capacity, there is a risk that they will avoid putting sites into Part 2 of the Brownfield Land Register if they form part of a mixed-use development or are in strategic locations. This could reduce the number of appropriate brownfield sites contained within the register being brought forward and promoted for development. In addition it might also lead to repetition of sites contained both within the local plan documents and the Brownfield Land Register, which this research has shown could potentially lead to apathy amongst planning teams and therefore reduce the effectiveness and appeal of the register.

There is a need for greater collaboration and sharing of skills and expertise to enable better calculation of development capacity. We recommend that local authority planning teams combine processes such as theoretical assessments and sense checking to refine and verify estimates of housing capacity, which also helps to develop the skills capacity of planning teams engaged with this process.

Whilst the Planning Practice Guidance provides more detail on how local authorities can add or remove Permission in Principle for different sites, local authorities should monitor sites on the Register to ensure that, where possible, opportunities for housing delivery, creating a balanced economy and protecting the environment are maximised.

We recommend that further research be carried out by local authorities to examine ways in which market forces can be encouraged to bring forward brownfield sites.

Also to address the anticipated challenges of PiP and estimating capacity, this area should be explored further once authorities have had chance to compile Part 2 of the Register. It would be useful to understand how the development capacity of sites located in areas of change, either from market interest or over the course of implementing a masterplan, can be estimated to ensure Brownfield Land Registers are as effective as they can be.

Government can also play a role in sharing best practice.

6.9 Reviewing the Register

6.9.1 The majority of case studies noted that in future they would undertake a review and update their Brownfield Land Register alongside their 'Call for Sites' activity. During the interview, respondents were asked why a regular update could not be done and overall the feedback was that there were insufficient resources to undertake a regular review. For many respondents the incorporation of a specific strategic annual target on housing development in the borough and/or annual assessment of housing delivery on brownfield land meant that it was more efficient to update the register in tandem with the annual monitoring report.

6.9.2 However, two interviewees also highlighted problems relating to the internal systems used across the different planning teams. For example, one respondent reported that other reporting mechanisms such as existing Information Technology (IT) across departments were not standardised and as such could not be automatically updated. Another issue that was also raised was with regards to the management of sensitive information on the Brownfield Land Register, such as ownership details. The pilot scheme provided each local authority with a spreadsheet to complete, which included information on the ownership details and one respondent questioned whether this was appropriate and if this sort of information should be shared both internally and externally.

6.9.3 Based on the evidence gathered from these case studies, it is clear that further guidance is needed around the engagement that should take place to inform and monitor a brownfield register. Also given the uncertainties that could affect development potential, such as land value, an early review of the regulations would be worthwhile.

6.9 Recommendation *Reviewing the Register – a process for continuous improvement*

In order to meet the requirements for an annual review of the Register in an effective way and meet data protection we recommend the following:

- Local authorities should develop a standardised IT system within their local authorities to allow Development Management officers to update the status of sites on the Register. A fully integrated system where the Register could update automatically as sites move through the planning process will also save time.
- Further guidance to address the management, sharing and security of any personal information on the Register is needed from Government.

The Government should also undertake a review on how local authorities are developing their Registers and implementing Permission in Principle on any regular basis. This must be sooner than the current commitment to a review in five years. This should include an assessment of how well authorities are using the Brownfield Land Register Data Standard and encourage authorities to use it to its fullest potential to allow the collation of a national register. This review should also monitor the progress of sites from identification, planning permission and delivery of new homes. An early review will enable the regulations to be refined where necessary. A steering or working group may be one way to help assist and review the performance of these regulations.

7. CONCLUSIONS

The following recommendations should be explored to allow policy makers and local authorities to produce robust and effective Brownfield Land Registers to make the most use of this new planning instrument to increase the speed of which new homes are delivered through the planning system on suitable brownfield sites.

The recommendations across all nine areas of this research can be collated into five themes.

Maximising identification

The Government should undertake a regular review of the Brownfield Land Registers policy, including the development of the Register, the impact on delivering homes and the impact on the land market (Sections 6.2 and 6.8).

The Government should utilise the opportunity of the review of the National Planning Policy Framework to strengthen the identification of brownfield development opportunities (Section 6.7). They should also encourage local authorities to consider ways in which to identify and bring forward small brownfield sites (Section 6.7).

The role of technological innovation should be explored further to improve participation in the process and ensure data is made more accessible. There is the opportunity to explore how multi-media participatory tools can be used not just for Brownfield Land Registers but for increasing engagement in planning activities.

Visibility

The Government should open up HM Land Registry to ensure that local authorities have free access to all available land data (Section 6.3). The Government should also provide guidance to address the security of any personal information to be held in the Registers (Section 6.9).

Local authorities should make use full use of the template for the Register as well as explore ways to improve accessibility of the data it holds, for example through integrated GIS mapping (Section 6.3).

An Annex of rejected or debated sites should be included as part of the Register to improve the transparency and support the annual review of the Register (Section 6.6).

Proactive engagement

The Government needs to clarify and publicise wider the purpose of the Registers to maximise the opportunities the Registers provide (Sections 6.2 and 6.4).

Local authorities should explore ways in which to engage a wider range of stakeholders in the process (Section 6.4).

Technological innovation could provide an opportunity for this (Section 6.4). The Government can also play a role in sharing best practice (Section 6.8).

Collaboration

The Government should clarify the relationship of the Registers with the evidence base of a local plan and five year housing land supply to avoid duplication of work (Section 6.2).

Local planning authorities should develop strategies to enable effective collaboration between officers and teams to share skills and expertise and make the process more efficient (Sections 6.1, 6.5, 6.8 and 6.9).

Local planning authorities should develop strategies to enable effective collaboration between officers and teams to share skills and expertise and make the process more efficient (Sections 6.1, 6.5, 6.8 and 6.9).

Further review

The Government should undertake a regular review of the Brownfield Land Registers policy, including the development of the Register, the impact on delivering homes and the impact on the land market (Sections 6.2 and 6.8).

We also recommend that the Government undertakes a review of the definition of brownfield so that urban and rural differences can be taken into account to ensure suitable brownfield sites, reliant on greenfield land, can be included on the Register (Section 6.6). The sharing of best practice between National Government and local authorities will be an important way to improve the process of developing an effective Brownfield Land Register (Section 6.4).

8 . Annex

This is a copy of the questionnaire that was sent to the respondents prior to the interview. The questions were used as guidance during the interview.

Introduction

This questionnaire will be used to guide telephone interviews with local planning authorities to understand how brownfield sites are identified and assessed for redevelopment potential. The questions have been informed by a literature review of relevant academic reference materials and policy documents, reflecting wider engagement and thought on the topic. HTA Design have been commissioned by CPRE to undertake this qualitative study and subsequent research report. We envisage that the research outcomes and recommendations could feed into informing revised methodologies relating to how to identify and assess brownfield sites for development. There are a number of general themes the research seeks to explore, including;

- how brownfield sites are captured through the local plan making process and through brownfield registers;
- the organisational approach to promoting and monitoring brownfield sites;
- how small sites are defined;
- the extent to which classification of brownfield / greenfield is suitability applied; and
- the application of Planning in Principle (PiP).

The implementation of the new Brownfield Land Registers, legislated on 16th of April and to be in place by 17th December 2017, is seen as a tool to help identify suitable sites quickly, speeding up the delivery of housing. Our research seeks to review the implications of these recent regulations and factors that may impact on the efficiency of the processes.

It is anticipated that the telephone questionnaires will take no longer than 30-40 minutes. The topics will be shared with each local authority in advance of the call to allow the participant time to review.

Thank you very much for your time to help feed into a key piece of research on this topic.

Questions for Case Studies

A) Status of local plan (to confirm information available online is correct to corroborate our desktop research).

B) Responsibility & Logistics

- Have you begun work on the brownfield register yet? If yes, when did you begin?
- What team and officers are /will be responsible for compiling your brownfield register?
- How many people will be working on this?
- If you have not yet started work on your brownfield register, please can you explain why this process has not yet commenced and confirm when you anticipate that you will start compiling the register?

C) Compiling the Register - Engagement and Notification

- How will you develop your brownfield register, or build on your current brownfield register in line with the regulations?
- How are you intending to raise awareness around the brownfield register e.g. how will it be publicized?
- Will you discuss this process with neighbourhood forums and parishes in your area? If yes how will you communicate the purpose of the register with them?
- Do you think you will get much response from stakeholder organisations and individuals in local communities participating in the brownfield register process?

-Do you know of any specific organisations who support with the identification of sites?

-Do you have Duty to cooperate protocols and talk to neighbouring local planning authorities about their brownfield register, and the methodology they use? If not, why not? If so, do you think different local authority approaches will vary and why if they do? Would you like to talk to neighbouring authorities more?

D) The Local Plan Process

- How do you see the brownfield register relating to the LPA's existing Housing and Economic Land Availability Assessment (HELAA)/site allocation process, for example will sites in the HELAA feed into the brownfield register and vice versa?
- Can you provide monitoring information to demonstrate how many of your residential consents in the past five years from have been brownfield windfall sites, and how many of these have been delivered? It would be useful if you can provide the site area, quantum of development consented, date of consent and start date on site (month/year). This can be emailed following the interview.

E) Identifying Brownfield Sites – Process

- Do you currently identify and monitor all previously developed land (like the National Land Use Database NLUD) through the current local plan process? If not, what is preventing all previously developed land sites in the borough/district being identified or monitored? Do you think it is useful to keep a list of what land is brownfield/greenfield?
- What kinds of brownfield land do you currently identify and consider from the list below? Please tick those which apply.

- Scope for flats above shops;
- Empty homes;
- Possible redevelopment of existing housing;
- Possible redevelopment of car parks;
- Other forms of urban intensification;
- Review of existing Local Plan allocations; and/or,
- If any of the above categories have been excluded please give reasons?

- Following recent case law, to the best of your knowledge, are you aware of any schemes in your district which have considered residential garden land in the open countryside as brownfield land?

- How will sites get identified as part of brownfield register? What data sources will / are used? Is this the same as HELAA? If not, how is it different?

- For example are sites for the brownfield register identified by: Please tick those which apply

- an internal process;
- through site promotion by members of the public
- through site promotion by community groups / organisations
- through site promotion by developers; or,
- A mixture of all? Please describe

.....

- If sites are identified through an internal process, what kinds of survey work do you carry out, or intend to commission, to capture brownfield sites in your authority? Please tick those which apply.

- Survey of whole area;
- Survey of defined 'priority areas' / 'strategic growth locations';
- Survey of 'typical' urban areas on basis of land use, character, housing density and/or other factors e.g. will you apply the settlement hierarchy to prioritize work; and,
- Other- please describe

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- How do you assess if a site is suitable or unsuitable through the brownfield register and how are they all recorded?

- For example, do windfall sites get included?
- Do /will you keep a list of unsuitable sites and why they are assessed as unsuitable, and how they could become suitable in the future, and when they are likely to come forward, what intervention is needed?

- Can you provide an estimate how long does it takes to review the sites for inclusion on the brownfield register? It would be useful to understand the likely or real resourcing required to undertake this piece of work e.g. numbers of staff / hours.

F) Identifying Brownfield Sites – Criteria & Size

- As part of your call for sites process, what criteria to sites need to meet? If yes, please can you provide more detail on what this is? Is there a size threshold?

- What do you define as a 'small sites'?

- Do you see small sites as a way to address housing need / supply?

Section 4 part (1) of the regulations set out the following criteria for in relation of land to be included within Part 1 of the Brownfield Land Register:

- a) the land has an area of at least 0.25 hectares or is capable of supporting at least 5 dwellings;
- b) the land is suitable for residential development;
- c) the land is available for residential development;
- and,
- d) residential development of the land is achievable.

- Do you have initial opinions or concerns regards regarding this criteria and implementing these regulations?

The regulations also state that the local planning authority may enter land in Part 1 of the Register where land 'meets the criteria in paragraphs (1) (b) to (d) of regulation 4, but does not meet the criterion in paragraph (1) (a) of regulation 4 concerning the site area or quantity of development'.

- Do you think you will be including, or have you included, brownfield sites less than 0.25 ha as part of your register? If not, please can you explain why not?

G) Identifying Brownfield Sites – Capacity

- How do you determine the development capacity of each brownfield site? Do you apply a standard density applied (e.g. 40 dwellings per hectare or more or less depending on how central the location is)?

- Have you found historically whether site capacity is over, or under-estimated?

H) Reviewing the Register

- Will the Register be a 'snapshot' in time, or to you foresee it will be regularly reviewed? Please can you explain in your opinion what would be the optimal review period and whether you think there are any challenges or benefits associated with a quarterly, biannual or annual review?

I) Recommendations

- In your opinion, does having a Brownfield Register help the development process? Does it speed up delivery? If not, why not?

- The regulations assume that if a site is included on the register it will be granted Permission in Principle (PiP) to establish that the land is suitable for housing led-development. The Government intend to lay the necessary legislation in 2017 to introduce 'permission in principle' consent for land included on Part 2 of the brownfield land registers.

- How do you see this feeding into the local plan making process? Will you be considering the Register as part of your housing land supply calculations?

- Do you think 'Permission in Principle' will increase efficiency of the planning process by establishing certainty over whether the land is suitable for housing? If not please explain your reasons.

- Do you have any recommendations on how to increase the efficiency of the planning process to bring brownfield sites forward for development?

J) Additional

- Does your local plan adopted / emerging [delete as necessary] have any specific planning policies focused on bringing forward? Please can you provide a web link?

- Small sites for development;
- Support for small developers; and
- Support for innovative housing on small or large sites e.g. custom build.

- If your local plan does not include the above policies please can explain why these have not been included?

**UNLOCKING POTENTIAL:
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LAND REGISTERS**

