



Plan to deliver development of Brownfield land

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1. Background

National Context

The Government is committed to increasing the level of housebuilding in England to ensure that communities can access the homes they need. The Government considers that brownfield land suitable for housing has a vital

role to play in meeting the country's need for new homes while protecting the countryside, and for this reason the Government wants to maximise the number of new homes on suitable brownfield land. The sections below outline the significant level of investment and national support schemes which have been committed to underpin the delivery of housing and employment development on brownfield land.

Brownfield Registers

On the 10th March 2016, Communities Secretary Greg Clark announced a list of 73 councils which will be at the forefront in bringing forward derelict and underused land for new homes across England. The 15 councils with the most brownfield land, according to official statistics, have agreed to take part in the scheme, while a further 58 councils were selected following a competition. The councils will pilot one of the new brownfield registers, with each council receiving £10,000 in funding from the Government to establish their register.

The registers will provide housebuilders with up-to-date and publicly available information on all suitable brownfield sites available for housing locally. It is intended that this will help housebuilders identify suitable sites quickly, speeding up the construction of new homes. They will also allow communities to draw attention to local sites for listing, including in some cases derelict buildings and eyesores that are primed for redevelopment. All councils across England are encouraged to continue offering up brownfield sites to deliver the homes their residents want and need.

Housing and Planning Bill 2015-16

On publication of the Housing and Planning Bill the Government said it would kick-start a "national crusade to get 1 million homes built by 2020". Historic data suggests that there is enough suitable brownfield land to accommodate 200,000 homes, and the Government wants to see local planning authorities taking a proactive approach to realising this potential. Brownfield registers will eventually become mandatory for all councils under proposals in the Bill, and this would then tie in with a new system of allowing the Secretary of State to grant "planning permission in principle" for housing on sites identified in these registers.

Planning permission in principle would have to be combined with a new "technical details consent", granted by the local authority before development could go ahead. This will mean developers building new homes on brownfield land will have a greater degree of certainty in relation to location, use and the amount of development. To underpin this ambition the Government has set an objective that by 2020 local development orders should be in place on over 90% of brownfield land suitable for housing, and which does not already benefit from planning permission.

Starter Homes

The Housing and Planning Bill redefines affordable housing to include starter homes and places a duty on local authorities to promote the supply of starter homes. At the heart of the Government's plans is a commitment to build

200,000 quality starter homes by 2020 exclusively for first time buyers under 40 at a 20% discount on market value. A comprehensive package of reforms and initiatives are being introduced to meet this commitment, including £2.3billion of funding in the Spending Review to support the delivery of up to 60,000 starter homes. In January the Prime Minister announced that £1.2billion of this funding is for a new Starter Home Land Fund to prepare brownfield sites for at least 30,000 starter homes by 2020 (see Appendix D).

Light Industrial to Housing Change of Use

The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016 will create a three-year temporary permitted development right for the change of use from light industrial to housing, up to a maximum floor space of 500sqm. Prior approval will be required in order to assess transport impacts, contamination and flood risk, as well as the impact on the sustainability of providing industrial, storage or distribution services where the change is in an area regarded as "important" for these activities. This new right will come into force on 1 October 2017, to give time for councils to issue an article 4 direction removing the right where appropriate.

Local Objectives

Promoting Local Economic Growth is a corporate priority for the Council, and the Council is committed to delivering an ambitious programme of growth and regeneration projects. Brownfield land available in East Staffordshire can potentially accommodate a significant amount of the new housing requirements, reducing the need for developing on Greenfield land. Additionally the development of brownfield sites can positively contribute towards improving both the appearance of the neighbourhoods around them, and the quality of life for residents. The production of a plan for delivering development on unused brownfield sites is a Corporate Plan target (PLEG06), and builds on the recommendations within the report titled "Use of Section 106 Commuted Sums for Affordable Housing" taken to Cabinet on 14 March 2016.

2. Project Scope

This paper sets out how the Council intends to identify redundant or poorly used (i.e. poor current value) brownfield sites, and prepare the land for new development. 'Brownfield' (previously developed) land is defined in Annex 2 of the National Planning Policy Framework (NPPF) as:

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.

The full definition including exclusions can be found within Appendix B of this report. This is a very broad definition and (apart from the exclusions) covers all land in England where there are or have been buildings or other development. Much of this land is already in productive use and would not be

suitable for new housing. It is therefore proposed that in determining a list of suitable brownfield sites, two sources would be of particular importance. These are the Council's Strategic Housing Market Assessment (SHMA) which informs the future need for housing, and the Strategic Housing Land Availability Assessment (SHLAA) which seeks to establish the capacity to deliver that need.

3. Preparing Brownfield Sites for Development

This section outlines the Council's proposed methodology to prepare and deliver development of brownfield sites across East Staffordshire.

Initial Assessment

An initial assessment would be undertaken to help identify the limitations and opportunities of a brownfield site. The site assessment will only become more detailed where it is considered to be a realistic candidate for development. It is important that only sites which are considered deliverable be put forward for more detailed assessment.

Using the following criteria, an assessment on the suitability of the site and whether the area would benefit from housing will be made:

- *Deliverable*: The site must be available for development now or in the near future. This will be a site not in current use, or a site in use (though not for housing) or under-utilised. Current land use of the site, and land uses and character of the surrounding area would need to be considered.
- *Accessible*: Both access and services to the site must be easily deliverable without 3rd party permission.
- *Suitable scale*: It is proposed that the site would need to be capable of supporting 15 or more dwellings or be 1 acre or more in size. It is considered that sites smaller than this do not offer appropriate scale, given that similar levels of resource, in terms of officer time and consultant costs, would be required to deliver any site.

Site Prioritisation

Site development would be prioritised using a sequential approach whereby those sites remaining unused for the longest time, and which have greatest potential for delivery would be prioritised. However, in accordance with the Local Plan, it will be important to protect the best employment sites should they become vacant or underused. Brownfield sites, once lost to another use, are unlikely to ever again become available for employment use. Sites of different sizes and characteristics need to be available to meet the current and future needs of all types of business.

Determine Appropriate End Use (Market or Affordable Housing)

Housing could be delivered through a range of housing providers including developers and Registered Social Landlords (RSL's). A key challenge acknowledged in the Local Plan is meeting the housing needs of the growing number of households, with homes that meet their specific requirements. The

Council's Strategic Housing Market Assessment is a good overall starting point for identifying the scale and mix of housing required in the Borough, and the range of tenures that the local population is likely to need. Colleagues within Housing Strategy will be best placed to provide advice on a site specific basis.

Should a site be sufficiently attractive for the private sector to be the delivery partner (i.e. following a soft market testing procedure), then the advice of an appropriate developer can be sought. However, it is envisaged that the private sector are not as likely as affordable housing providers to be interested in such opportunities. Therefore, it is likely that an RSL will be the end user. An RSL would advise the Council on the appropriate tenure, and that the final decision in terms of the inclusion of market housing would be negotiated between the Council and the RSL. For each site, an appropriate mix and tenure would be agreed at this early stage. An assessment of the value of any private, for-sale housing would be independently valued by an appropriate body.

Schematic Layout

Once a site has been considered acceptable through an initial assessment, and an end use has been determined, an indicative plan which shows a schematic layout for the development site with connections to existing roads would be produced. The Homes and Communities Agency's Technical Panels could be utilised to enable the quick and efficient procurement of a schematic layout. A consultant appointed through the HCA Technical Framework would be provided with a prescribed mix, which will inform the layout. The precise details of numbers, layout, road layout, siting, and design would be produced for consideration/approval at a later stage. This could be procured as a package arrangement to optimise value.

Desktop Technical Assessment

The Council will not identify as suitable for housing any land which is subject to severe physical, environmental or policy constraints, unless the constraints can realistically be mitigated while retaining the viability of development. Brownfield sites are more likely to have development constraints, when compared to Greenfield sites, due to previous uses, location, and proximity to other uses. The most common abnormal cost on brownfield land when compared with Greenfield land is site contamination. Despite a 'polluter pays' principle, the most common method of remediation is through the town and country planning regime as part of a development project. The Council would therefore be required to undertake a Phase 1 Preliminary Risk Assessment as the first stage of the contaminated land assessment process.

Assessment of Land Value

Central to the consideration of viability is the assessment of land value. Development land is typically valued using a residual approach with reference to comparable transactions. When making an assessment of land value it will be important for the Council to consider the fact that the costs of developing brownfield sites can vary from case to case, but there are common principles

which should be reflected. Sites suitable for affordable housing will typically have a lesser land value. Having established the development potential of a site, a residual valuation can be expressed as a simple equation:

Land value is calculated by taking the Gross Development Value (i.e. the total sum that would be yielded by a completed development), and deducting the total development costs and the developer's profit.

Development Scenarios

Once the Council considers a site to be suitable, the landowner would be approached by the Council to begin negotiations and gauge their level of interest. Where viability may be an issue, the Council could, where the conditions of the agreements permit this, intervene to address this market failure by utilising Section 106 (s106) contributions to purchase strategic brownfield sites deemed to be deliverable and developable. The s106 monies could be used to satisfy land owners expectations in terms of land price, as long as such expectations are in line with market values for residential development. These sites could then be transferred directly on to registered social housing providers, or developers delivering social housing or regeneration schemes, at a price which would ensure the development is viable, on the following basis;

Total site value = s106 contributions (paid by the Council) plus affordable housing value (paid by the RSL).

However, before the Council commits to purchasing a site and continuing to get it 'oven ready', the Council would need to obtain clear evidence that there will be interest from developers or registered social housing providers in purchasing the site and building houses in the near future. A site will likely become more attractive to prospective purchasers if the Council has already completed the substantial work required by a detailed site assessment. The Council could consider that in the event of no developer or RSL wishing to develop out the site, it would build out the site themselves, e.g. new homes which the Council would then privately rent out.

Compulsory Purchase Orders

If there are ownership barriers to purchasing the land, for example in cases of multiple and unknown ownership, the Council has the power to obtain a legal order requiring the sale of the land at a set price. However, Compulsory Purchase Orders (CPO's) can only be used to improve the supply and quality of housing where it is in the public interest, and this requirement is likely to be tested through the legal process. The threat of a CPO can be an effective motivator; however the legal process of actually obtaining a CPO and handling any objections are frequently lengthy and expensive, and so their use would need to be carefully considered.

Detailed Appraisal

Once the site has been through the process outlined above, and an end user identified and signed up (subject to contract), the due diligence work can

begin. At this point increased investment in pre-development costs, including consultants' fee would be incurred. In order to evidence whether a site is "free from constraint" properly, there must be thorough investigation, which will require specialist professional advice. The following reports and technical assessments would need to be undertaken at cost to the Council:

- Detailed layout for the site;
- Geotechnical appraisal - ground condition surveys;
- Tree surveys;
- Archaeological surveys;
- Habitat and/or protected species surveys;
- Flood Risk Assessment;
- Services report;
- Highways assessment;
- Independent marketing / valuation report;
- Legal report - title etc.

It is envisaged that this element of work could exceed £100,000 per site, which the Council would aim to recoup following the delivery of the development.

Sign-off Completed Development Viability

Working with the RSL (or developer), a detailed business plan for each investment opportunity will be required which demonstrates the commercial strength of the proposal, and the risk of any unverified estimated costs. Assessment of costs would need to be based on robust evidence that is reflective of market conditions. All development costs (from both internal and external sources) would be taken into account including:

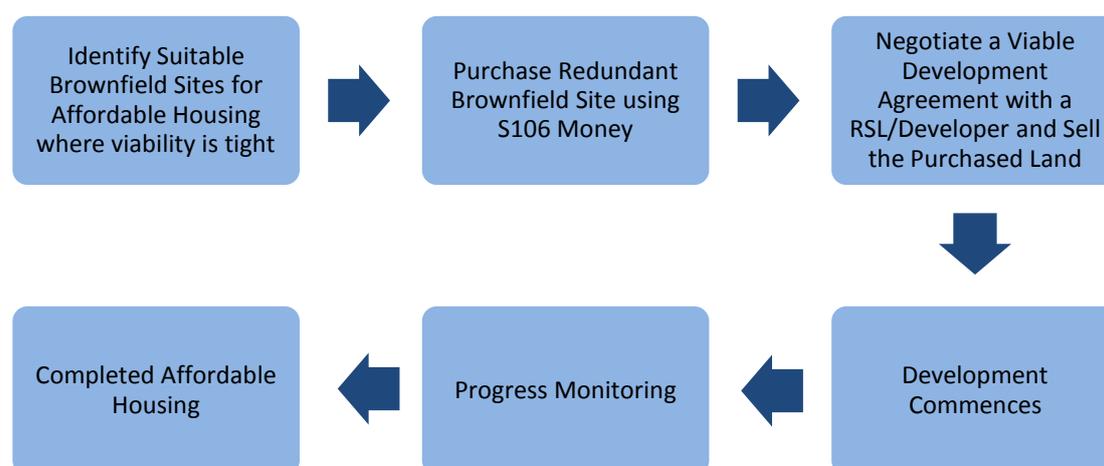
- Build costs based on appropriate data;
- Abnormal costs, including those associated with treatment for contaminated sites or listed buildings;
- Infrastructure costs, which might include roads, sustainable drainage systems, and other green infrastructure and connection to utilities;
- Planning obligations;
- Finance costs; and
- Professional (i.e. architectural services), project management and sales and legal costs.

A site is viable if the value generated by its development exceeds the costs of developing it, and also provides sufficient incentive for the land to come forward and the development to be undertaken. Relevant factors will vary from one land use type to another. For residential schemes, viability will vary with housing type, including housing for sale or rent. Wherever possible, specific evidence from comparable developments should be used after adjustment to take into account types of land use, form of property, scale, location, rents and yields.

Delivery

The RSL or developer would be contractually required to deliver the new homes within an agreed timeframe, defined legally, by way of entering into a Development Agreement. The Council would likely only implement a Development Agreement if they were the landowner or if the Council was going into an agreement with an RSL to utilise the s106 monies to purchase a site. The delivery model is shown below in Figure One.

Figure 1: Council Purchase Development Process



To avoid excess tax implications, the transfer of the land from the landowner to the end user would be arranged under a build licence. This would avoid duplication of SDLT (stamp duty) if the Council acquired the site, only to “sell” onto the RSL or developer.

4. Potential Sources of Funding

Section 106 Commuted Sums

Under the Council’s Local Plan and associated policies, the Council requires developers of sites in the Borough which exceed a given number of dwellings to provide an affordable housing contribution under Section 106 of the Town and Country Planning Act 1990. Part of the contribution may be on-site dwellings but part of it may also be provided as a monetary contribution which may be described as an Affordable Housing Sum or a Commuted Sum.

The Council currently holds £697,711 in s106 commuted sums which have been paid in lieu of affordable housing. The Council anticipates collecting a further £5,943,324 over the coming years. A full breakdown can be found within the table in Appendix C. The Council is required to invest the developer contributions within 5 years of each capital receipt, failing which the agreements provide that the Council is required to repay the unspent amounts.

Starter Home Land Fund

The aim of the £1.2 billion Starter Home Land Fund is to support the acquisition, remediation and de-risking of suitable land for starter home developments that can then be built out by developers. The Fund will operate over the next three financial years, to ensure construction of starter homes is happening from 2018 onwards. Receipts from the subsequent sale of remediated land to private developers will then be used to support the delivery of more starter homes later in the Spending Review period. The majority of the Fund will be managed by the Homes and Communities Agency where they will be seeking opportunities to acquire, remediate and de-risk suitable sites across the country outside London. Details of the HCA's offer to local authorities is within Appendix D.

Unlocking Housing Sites Programme

The Unlocking Housing Sites Programme is opportunity-led and open to the private sector, local authorities and Registered Providers for schemes within the Birmingham & Solihull Local Enterprise Partnership geographical area. The Programme has been developed with Local Growth Fund of £9 million made available by the Greater Birmingham & Solihull Local Enterprise Partnership (GBSLEP). The Programme has been designed principally to deliver targeted assistance to make sites ready for development and unlock constraints. Based on the evidence of need, financial assistance may be in the form of grant, loan or equity. In addition the Programme may also consider funding for site specific feasibility studies.

5. Governance

All projects would need to go through the Business Assurance Group. Any agreements to purchase a site would need to go to the Council's Legal team and the relevant Deputy Leader. Each acquisition would need to be signed off by an Executive Decision Record (EDR) which will be subject to the standard call-in procedure.

6. Initial Brownfield Sites

The relevant Deputy Leader would make the decision on which sites to progress to delivery appraisal.