



EAST STAFFORDSHIRE BOROUGH COUNCIL

REPORT COVER SHEET

Title of Report:	Plan to Deliver Development of Brownfield Land
Meeting of:	Cabinet
Date:	13 th June 2016
Is this an Executive Decision:	Yes
Is this a Key Decision:	Yes
Is the Report Confidential:	No
If so, please state relevant paragraph from Schedule 12A LGA 1972:	

Essential Signatories:

ALL REPORTS MUST BE IN THE NAME OF A HEAD OF SERVICE

Monitoring Officer: **Angela Wakefield**

Date Signature

Chief Finance Officer: **Sal Khan**

Date Signature

EAST STAFFORDSHIRE BOROUGH COUNCIL

Report to Cabinet

Date: 13th June 2016

REPORT TITLE: Plan to Deliver Development of Brownfield Land

PORTFOLIO: Built Environment

HEAD OF SERVICE: Paul Costiff

CONTACT OFFICER: Kimberley Evans Ext. No. x1592

WARD(S) AFFECTED: All

1. Purpose of the Report

1.1. This is the covering report to accompany the Plan for Development of Brownfield Land attached in Appendix A.

1.2. The purpose of the report is to set 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.

1.3. The subject of this report is a 2016/17 Corporate Plan target reference PLEGO6, 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. Background

2.1. National Objectives

2.1.1. 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.

2.1.2. The attached paper outlines 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.

2.2. Local Objectives

2.2.1. 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.

2.2.2. Brownfield land available across the Borough can potentially accommodate a significant amount of the new housing requirements. This can reduce the need for developing on Greenfield land, and positively contribute towards improving the appearance of neighbourhoods, and the quality of life for residents.

3. Contribution to Corporate Priorities

3.1. Identifying redundant or poorly used sites and preparing them for development will regenerate brownfield sites and deliver new homes. This supports the corporate priority to promote local economic growth.

4. Main Body of Report

4.1. Brownfield Land Defined

4.1.1. 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.

4.2. Methodology of Preparing Brownfield Sites for Development

4.2.1. **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. The attached report outlines the criteria for assessing the suitability of a site and whether the area would benefit from housing.

4.2.2. **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.

4.2.3. **Determine Appropriate End Use** - Housing could be delivered through a range of housing providers including developers and

Registered Social Landlords (RSL's). The Council's Strategic Housing Market Assessment is a good overall starting point for identifying the required scale and mix of housing and the range of tenures. Should a site be sufficiently attractive for the private sector to be the delivery partner, then the advice of an appropriate developer can be sought. 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.

4.2.4. 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 layout. A consultant appointed through the HCA Technical Framework would be provided with a prescribed mix, which will inform the schematic layout.

4.2.5. 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 Council would be required to undertake a Phase 1 Preliminary Risk Assessment as the first stage of the contaminated land assessment process.

4.2.6. 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. 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.

4.2.7. Development Scenarios - Once the Council considers a site to be suitable, the landowner would be approached 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. These sites could then be transferred directly on to RSL's, 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. 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.

4.2.8. **Detailed Appraisal** - Once a 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. The attached report outlines the various technical assessments which would need to be undertaken. 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.

4.2.9. **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. 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. For residential schemes, viability will vary with housing type, including housing for sale or rent. Wherever possible, specific evidence from comparable developments would be used after adjustment to take into account types of land use, form of property, scale, location, rents and yields.

4.2.10. **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. 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.

5. Potential Sources of Funding

5.1. Section 106 Commuted Sums

5.1.1. 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.

5.1.2. 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.

5.2. Starter Home Land Fund

5.2.1. 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.

5.2.2. 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.

5.3. Unlocking Housing Sites Programme

5.3.1. 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.

6. Governance

6.1. 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.

7. Potential Initial Brownfield Sites

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

8. Financial Considerations

This section has been approved by the following member of the Financial Management Unit: Lisa Turner.

8.1. The Council would utilise s106 contributions to purchase strategic brownfield sites deemed to be deliverable and developable. The current balance held is £697,711, and funding will only be committed once it has been received.

8.2. A further £5,943,324 is contained in existing s106 agreements with developers. Details are contained in Appendix C.

8.3. Based on the regeneration of Pennycroft, it is estimated that pre-development costs (i.e. preparation of technical reports etc.), could exceed £100,000 per site, which the Council would aim to recoup following the delivery of the development. Such costs would come from Growth Point Capital Grant Funding.

9. Risk Assessment and Management

9.1. The main risks to this Report and the Council achieving its objectives are as follows:

9.2. **Positive** (Opportunities/Benefits):

- Development of new housing on such sites would contribute towards the Council's housing completions performance.
- The S106 monies can be used to alleviate housing need and potentially to deliver regeneration (subject to the precise requirements of the S106 agreements in each case).
- The development of redundant or poorly used (i.e. poor current value) brownfield sites can positively contribute towards improving both the appearance of the neighbourhoods around them, and the quality of life for local residents.

9.3. **Negative** (Threats):

- Targeting particular areas for capital expenditure will necessarily be at the expense of other areas.
- Anticipated s106 monies may not materialise if the development subject to s106 contributions is mothballed.

- Section 106 Funds must be spent within 5 years of receipt, otherwise there is a risk that such sums are repayable to the developer.
- The developer/RSL fails to deliver despite a Development Agreement being in place which leads to development of a site stalling, leading to a judicial challenge by the Council.

9.4. The risks do not need to be entered in the Risk Register. Any financial implications to mitigate against these risks are considered above.

10. **Legal Considerations**

*This section has been approved by the following member of the Legal Team:
Angela Wakefield*

10.1. The main legal issues arising from this Report are as follows:

- Legal support would be required to complete Development Agreements.
- The flexibility to use the s106 monies as the Council might wish may be constrained by the precise terms of individual s106 agreements.

11. **Equalities and Health**

11.1. **Equality impacts:** The subject of this Report is not a policy, strategy, function or service that is new or being revised. An equality and health impact assessment is not required.

11.2. **Health impacts:** As above.

12. **Human Rights**

12.1. There are no Human Rights issues arising from this Report.

13. **Sustainability** (including climate change and change adaptation measures)

13.1. Does the proposal result in an overall positive effect in terms of sustainability (including climate change and change adaptation measures) N/A

13.2. Please detail any positive/negative aspects:

13.2.1. **Positive** (Opportunities/Benefits):

- Potential for new homes eco-friendly homes, even if they are only built to the statutory building regulations.

13.2.2. **Negative** (Threats):

14. **Recommendation(s)**

- 14.1. Approve the proposed process of identifying sites and engaging with landowners with the objective of regenerating brownfield sites and bringing forward new homes.
- 14.2. Approve the allocation of £0.1m of Growth Point Capital Funding to support pre-development costs.

15. Background Papers

- 15.1. 'Use of Section 106 Commuted Sums for Affordable Housing' taken to Cabinet on 14 March 2016

16. Appendices

- 16.1. Appendix A - 'Plan to Deliver Development on Unused Brownfield Land' report
- 16.2. Appendix B - Defining Brownfield Land
- 16.3. Appendix C - Section 106 Commuted Sums for Affordable Housing
- 16.4. Appendix D - The HCA's Starter Homes: Unlocking the Land Fund