



## **BROWNFIELD LAND REGISTER METHODOLOGY – NOVEMBER 2017**

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### **What is the Brownfield Land Register?**

The Brownfield Land Register (BLR) is a publicly available list of brownfield land that is suitable for housing, irrespective of their planning status. Local Planning Authorities (LPAs) must update the BLR at least once a year. The BLR does not have material weight in the determination of planning applications, i.e. the existence of a site on the BLR does not increase the likelihood of securing planning permission.

[The Town and Country Planning \(Brownfield Land Register\) Regulations 2017](#) (hereafter 'the Regulations') set out detailed requirements for preparing, maintaining and publishing a BLR.

The BLR must be kept in two parts:

- Part 1 comprises all brownfield sites appropriate for residential development; and
- Part 2 comprises those sites granted permission in principle (PiP).

The decision to grant PiP is entirely down to the LPA. Islington's BLR does not currently grant PiP for any sites, meaning there are zero sites on Part 2 of the BLR.

The Government have produced a [Brownfield Land Registers Data Standard](#), which sets out strict formatting requirements which all BLRs should adhere to.

### **What sites should be included on the Brownfield Land Register?**

The Regulations state that a parcel of land which meets the following criteria must be included on the BLR:

1. It has an area of at least 0.25 hectares or is capable of supporting at least 5 dwellings;
2. It is suitable for residential development, meaning it is either allocated in a local development document; has planning permission (including PiP) for residential development or, in the opinion of the LPA, it is appropriate for residential development having regard to any adverse impact on the natural environment; the local built environment and any adverse impact on the local amenity which such development might cause for intended occupiers of the development or for occupiers of neighbouring properties;
3. It is available for residential development, meaning the landowner/developer currently intends to sell/develop the land, or the LPA consider there are no issues relating to the ownership of the land or other legal impediments which might prevent residential development of the land taking place; and

4. Residential development of the land is achievable, meaning that, in the opinion of the local planning authority, the development is likely to take place within 15 years of the entry date.

For the purposes of the Regulations, residential development means development the main purpose of which is housing development, i.e. housing-led development. There are some sites – permissions, allocations and/or trajectory sites – which do not have a main purpose of residential development. These sites have not been included in the BLR. Further information on these sites is provided below.

LPAs are required to have regard to the development plan, including the Local Plan, when making decisions about which sites to include on their registers.

The LPA may, if it chooses, enter land onto the BLR where the land is less than 0.25 hectares or is not capable of supporting at least 5 dwellings, so long as the land meets the other criteria.

[Planning Practice Guidance \(PPG\)](#) is clear that existing planning permissions and sites identified through the Strategic Housing Land Availability Assessment (SHLAA) is the starting point for compiling the BLR. Islington has recently completed an updated SHLAA as part of a London-wide exercise. All relevant sites from the SHLAA exercise – which meet the criteria in the Regulations – have been included in the BLR. This is primarily existing permissions and relevant allocated sites from the adopted Local Plan.

There are several sites which are not permitted/allocated which are also included. These sites were either submitted as part of the SHLAA call for sites or are large windfall sites that had no development potential when the current Local Plan was adopted (hence they are not allocated). It is considered that these sites meet the criteria in the Regulations, particularly that they are suitable for residential development having regard to potential adverse impact on the natural environment, the local built environment (including in particular on heritage assets); and any adverse impact on the local amenity which such development might cause for intended occupiers of the development or for occupiers of neighbouring properties.

There are a number of extant permissions for five units or more which were not included in the SHLAA as the sites do not meet the SHLAA threshold of 0.25 hectares. These sites have been included in the BLR because they are capable of providing 5 units or more, and hence meet the threshold in the Regulations.

In preparing the BLR, officers monitored pending applications with a view to adding these into the BLR if they were permitted prior to the BLR being published. However, these pending applications have not been added to the BLR unless they have been permitted. The status of these pending applications was monitored until 3 November 2017.

#### **Does the council need to consult on the Brownfield Land Register?**

There is no requirement to consult on Part 1 of the BLR, although LPAs are free to consult if they choose to. If it is proposed to grant PiP, the Regulations require specific consultation.

Islington has decided not to consult on this first iteration of the BLR. There are no sites on Part 2 of the BLR (which grants PiP) and Islington do not consider consultation on Part 1 is necessary, as all sites on Part 1 have been publicised and considered in detail in some form previously, be that via the determination of planning applications, the adoption of site allocations, the publication of Islington's Housing Trajectory or the SHLAA exercise (including the public call for sites process).

The Islington Statement of Community Involvement (SCI) sets out how Islington's communities can get involved in planning, particularly elements of the planning system which have an impact on local areas. As Part 1 of the BLR has no statutory weight in either decision taking or plan making, and the sites on the BLR are determined by regulatory criteria, consultation would not lead to any meaningful amendments to the BLR.

As part of the preparation of the BLR, the council has undertaken a Residents Impact Assessment which assesses the impact of the BLR on certain groups including residents and service users. The RIA concluded that there were no impacts related to equalities issues or safeguarding and human rights.

The decision not to undertake consultation on this iteration does not preclude consultation on future iterations.

### **Is a Strategic Environmental Assessment required for the preparation of brownfield land registers?**

The PPG<sup>1</sup> notes that a BLR may require Strategic Environmental Assessment if it is considered to be a plan or programme which sets the framework for future development consent for development which is likely to have a significant effect on the environment.

The council do not consider that this iteration of the BLR sets a framework for future development consent, as it has no material weight in the determination of planning applications (as there are no sites on Part 2 of the current iteration of the BLR and hence no sites which are granted PiP) or with regard to future site allocations (which must be adopted through the plan-making process).

Future iterations of the BLR may need to be screened for an SEA.

### **Key issues for consideration**

In preparing the BLR, the council has considered the relevant regulations in detail, as well as having regard to PPG. There are a number of aspects of the regulations and guidance related to the register that remain unclear. Where this is the case, the council have taken a reasonable interpretation of regulations and guidance to inform production of the BLR. Several key issues are discussed below:

#### **Meaning of the term 'allocate' in terms of Regulation 5 (2) (c) of the Regulations**

The regulations use the terms 'allocate' and 'allocated' in different contexts. In the 'suitable for residential development' definition set out in Regulation 4, 'allocated' means

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<sup>1</sup>Paragraph 022

identified as a potential development site in a local development plan document (as per section 37 of the Planning and Compulsory Purchase Act 2004).

However, the term 'allocate' used in Regulation 5 refers to the decision to put a site on Part 2 of the BLR. This interpretation is supported by Schedule 2 (4) of the Regulations which specify that, where a site is entered onto Part 2 of the BLR, the BLR entry for the site must contain the statement "allocated for residential development for the purposes of section 59A of the Town and Country Planning Act 1990 (permission in principle)".

It is important to clarify this potential confusion in terminology as Regulation 5 could be potentially be read as requiring entry onto Part 2 of the BLR if a site is allocated in local development plan document, which is not the case. The decision to enter a site onto Part 2 is for the LPA alone<sup>2</sup>.

### Net versus gross

The Regulations and PPG are not clear about whether the 5 dwelling threshold for inclusion on the BLR refers to net or gross dwellings. Regulation 4 of the Regulations merely requires sites to be included if they have an area of at least 0.25 hectares or is capable of supporting at least 5 dwellings. This suggests the threshold is a gross figure.

However, Schedule 2 of the Regulations requires sites on the BLR to set out the minimum net number of dwellings which, in the authority's opinion, the land is capable of supporting.

This is an important distinction as there are several sites – all extant permissions – which are less than 0.25 hectares, and permit 5 or more dwellings gross but less than 5 dwellings net. Hence the decision to enter these sites onto the BLR hinges on whether we assume the 5 dwelling threshold is net or gross.

Islington have assumed that the Regulations refer to the gross figure in terms of assessing capability under Regulation 4, although a site's net figure is used for the 'MinNetDwellings' column. The council will monitor changes to guidance and other boroughs BLRs for best practice, and may revert to a net figure in future in terms of assessing sites against the Regulations.

### Identifying housing-led sites

As noted above, only sites whose main purpose is housing development, i.e. housing-led development, are included on the BLR, and there are some sites – permissions, allocations and/or trajectory sites – which do not have a main purpose of residential development.

In determining whether a site is housing-led for the purposes of this iteration of the BLR, the council have taken into account the existence of any priority land uses (based on specific designations) and/or the balance of residential and commercial floorspace on

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<sup>2</sup> PPG paragraph 006 states that Part 2 will comprise only those sites in Part 1 that the local planning authority has decided that the land would be suitable for a grant of permission in principle for residential development.

any given site (based either on a planning permission or capacity assumptions from a site allocation or SHLAA assessment).

This determination is a case-by-case issue and it is not considered practical to set a fixed threshold to determine whether a site is housing-led, e.g. more than 50% of floorspace for housing.

The following permissions and allocations meet the BLR thresholds set out in the Regulations (at least 0.25 hectares or capable of supporting at least 5 dwellings) but are not considered to be residential development (i.e. their main purpose is not housing development) and therefore have not been included on the BLR:

- White Collar Factory, City Road, permission reference P101833 – office-led redevelopment for provision of over 30,000sqm of B1 floorspace, additional retail/restaurant space and six residential units.
- Finsbury Tower, Bunhill Row, permission reference P2016/3939/FUL – office-led redevelopment involving a 12 storey extension to the existing 16 storey building and additional new building to provide approximately 13,000sqm of office (Use Class B1a) floorspace; change of use of part of the ground floor accommodation to flexible Class A1 (retail) and A3 (restaurant/cafe) uses; and the erection of six storey residential block to provide 25 affordable dwellings.
- Zimco House, Cowcross Street, permission reference P2014/1103/FUL – demolition, refurbishment and extensions to provide office-led scheme with 2,503sqm of new B1 office accommodation and the provision of six new residential flats.
- 96-100 Clerkenwell Road, permission reference P2014/0373/FUL - demolition of all existing structures on-site with redevelopment for commercial-led development comprising a 212 bedroom hotel (Class C1), five residential units, office and retail space.
- 1 & 2-5 Benjamin Street and 94-98 Turnmill Street, permission reference P2014/2950/FUL – office-led development with retail space and four residential units.
- Whittington hospital ancillary buildings, allocation reference ARCH2 – the site allocation is for residential-led development, but the site is now likely to come forward for social infrastructure and other uses.
- Spring House, allocation reference HC2 – the site allocation identifies potential for mixed-use redevelopment/refurbishment to provide D1, B1, retail and residential uses. This allocation is made up of several individual sites, of which two have been developed through office to residential permitted development rights. Spring House is the remaining part of the allocation which may be suitable for residential use, although it is noted that the building is currently a D1 use so any redevelopment would likely be predominantly D1 (the continued D1 element of the allocation).
- Highbury and Islington Station, allocation reference HC6 – commercial-led development with some residential uses. In addition, there are a number of ownership, technical and policy constraints which mean this site is unlikely to come forward, especially within the next 15 years. The site has not been identified by TfL in any of their investment plans and has not been put forward by either Network Rail/TfL as part of the call for sites for the Local Plan review.
- RBS, 42 Islington High Street, allocation reference AUS2 – commercial-led redevelopment with an element of residential. In addition, this site is not considered achievable as it has been identified as a Crossrail 2 site and is not likely to come forward for redevelopment within 15 years.

- Islington High Street/Chapel Market/White Lion Street, allocation reference AUS4 – this site is made up of a number of smaller sites and is not expected to come forward as one large site. Further, where smaller sites within the allocation come forward, they are likely to be commercial-led. There is also an issue about whether certain parts of the site are achievable due to potential Crossrail 2 works.
- 1-7 Torrens Street, allocation reference AUS6 – allocated for commercial-led development with an element of residential use.
- City Barbican Thistle Hotel, Central Street, allocation reference BC5 – hotel-led redevelopment, with an element of residential use.
- 68-86 Farringdon Road, allocation reference BC46 - allocated for commercial-led development with an element of residential use.
- Angel Gate, City Road, allocation reference BC48 – business/commercial-led redevelopment, alongside residential use.

#### Sites allocated for housing in Local Plan

In addition to the non-housing-led allocations noted above, the following are sites which are allocated for housing (in some cases an element of housing) in the Local Plan that the council has decided not to include in the BLR<sup>3</sup> as residential use is no longer considered achievable and/or suitable:

- NCP Car Park (Phase 2), 1 Pear Tree Street, allocation reference BC16 – there is a recently permitted application (app ref: P2015/4725/FUL) for office use (with no housing), which shows that development would be the priority on the site.
- 148 Old Street, allocation reference BC19 – permission granted for office-led development with no housing (application ref: P2014/4519/FUL)
- 207-211 Old Street, allocation reference BC23 – permission granted for commercial development with no housing (application ref: P2013/1667/FUL)
- 119 Farringdon Road, allocation reference BC43 – permission granted for office-led development with no housing (application ref: P2015/4143/FUL)
- Gambier House multi-storey car park and Betty Brunker Hall, allocation reference BC11 – the allocation was included as it reflected plans for redevelopment at the time. However, the site is no longer expected to come forward for development.

The boundaries of several allocated sites included in the BLR have been amended to reflect changes since adoption of the allocations:

- Archway Core Site, allocation reference ARCH1 – the allocation covers the 'core' site and the 'island' site, but only the Vorley Road bus station part of the allocation has been included in the BLR. This is because the 'island site' is expected to come forward with commercial or D1-led redevelopment, and the remaining parts of the 'core' site have already been permitted for residential and hotel uses.
- Finsbury Park Core Site, allocation reference FP1 – the allocation covers four sites (A-D). Site A is permitted (application ref: P092492); a student accommodation development on site B (John Jones) has recently completed; and site D is not considered achievable for residential development, particularly the over-station element. Site C is the only part of the allocation which has been included in the BLR.

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<sup>3</sup> Sites which are allocated for housing in Local Plan which have already been wholly permitted or completed are also not included.

- Morrisons supermarket, Hertslet Road and 8-32 Seven Sisters Road, allocation reference NH1 – the allocation boundary includes a number of smaller properties, the covered market and the Morrisons supermarket and car park. The allocation in its totality is unlikely to be achievable, but the Morrisons site, which covers most of the allocation, can be considered achievable (partially, see comment below). Therefore, only the Morrisons site has been included in the BLR.
- 176-178 York Way & 57-65 Randalls Road, allocation reference KC4 – there is an extant permission at 57-65 Randalls Road (application ref: P2015/2834/FUL) which is included separately in the BLR. Therefore, the boundary of the allocation has been amended to include only 176-178 York Way.

#### Other site information to note

There is one phased site on the BLR – Packington Estate, permission reference P102754 – which has already partially completed. The 'MinNetDwelling' figure on this site reflects residential units yet to be completed<sup>4</sup>.

#### Sites with an element of Greenfield

There are four permitted sites on the BLR with an element of greenfield land:

- Packington Estate, permission reference P102754
- King Square Estate & part of Moreland Primary School, Goswell Road, permission reference P2014/5216/FUL
- 351 Caledonian Road, Gifford Street Railway Embankment, permission reference P2014/0609/FUL
- Kings Cross Triangle Site, York Way, permission reference P041261

Despite the element of greenfield on these sites, we consider that they would all meet the definition of previously developed land set out in the National Planning Policy Framework (NPPF)<sup>5</sup>, therefore we have included them in the BLR. This is consistent with guidance set out in paragraph 011 of the PPG.

#### Non-self-contained units

The Regulations and PPG are not clear about what type of housing should be included on the BLR. Generally residential use can be classified as self-contained (conventional) – houses and flats - or non-self-contained – such as student accommodation<sup>6</sup>.

Islington have assumed that the BLR relates solely to self-contained (conventional) dwelling, but will monitor changes to guidance and other boroughs BLRs for best practice, and may include non-self-contained accommodation in future.

#### Emerging allocations

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<sup>4</sup> This site involved the demolition of existing residential units. Discounting these existing units from the number of units yet to be completed gives a negative figure. The overall scheme delivers a total of 270 net additional dwellings.

<sup>5</sup> <https://www.gov.uk/guidance/national-planning-policy-framework/annex-2-glossary>

<sup>6</sup> The definition used by the Government for statistical purposes is set out here: <https://www.gov.uk/guidance/definitions-of-general-housing-terms>

The majority of sites on the BLR are extant permissions or adopted site allocations but there are five sites which are not permitted or allocated. These sites were identified through the SHLAA process and/or are large windfall sites that had no development potential when the current Local Plan was adopted (hence they are not allocated).

Islington is currently reviewing the Local Plan, which will include new site allocations, including the five sites noted above. There may be further new allocations which meet the criteria for inclusion on the BLR. As and when these allocations are developed, they will be included on future BLRs where they meet the criteria.

#### Schemes which only partially deliver within 15 years

To be included on the BLR, sites must meet certain criteria including the need to be 'achievable', meaning that, in the opinion of the LPA, the development is likely to take place within 15 years of the entry date on the BLR. However, the Regulations and PPG are unclear about the process for including sites which the LPA considers will only partially deliver within 15 years.

Islington have assumed that for such partially delivered sites, the associated level of housing – be that a range or a minimum net dwelling figure – should reflect only the number of dwellings which will come forward within the 15-year period, not the total number of dwellings which will come forward from the scheme in its entirety.

There two sites on the BLR – Pentonville Prison, reference TRAJ4; and Morrisons supermarket, reference NH1 – which Islington consider will only partially deliver within 15 years, i.e. by November 2032. The amount of housing expected from these sites has been adjusted accordingly.

#### Deliverable sites

The BLR must indicate whether relevant sites are deliverable, defined in the Regulations as a site where there is a reasonable prospect that residential development will take place on the land within 5 years (beginning with the BLR entry date). It is not clear whether the Regulations mean that a site should be fully complete by this date, or whether development of a site should be in progress by this date.

For the purposes of the BLR, Islington have assumed that deliverable means that development of a site should be in progress, i.e. that the site will have a planning permission which has been implemented.

#### Ownership of sites

The BLR identifies all sites as unknown ownership, which reflects the lack of access to up-to-date Land Registry records for these sites. Islington will aim to secure ownership data for sites on future iterations of the BLR.