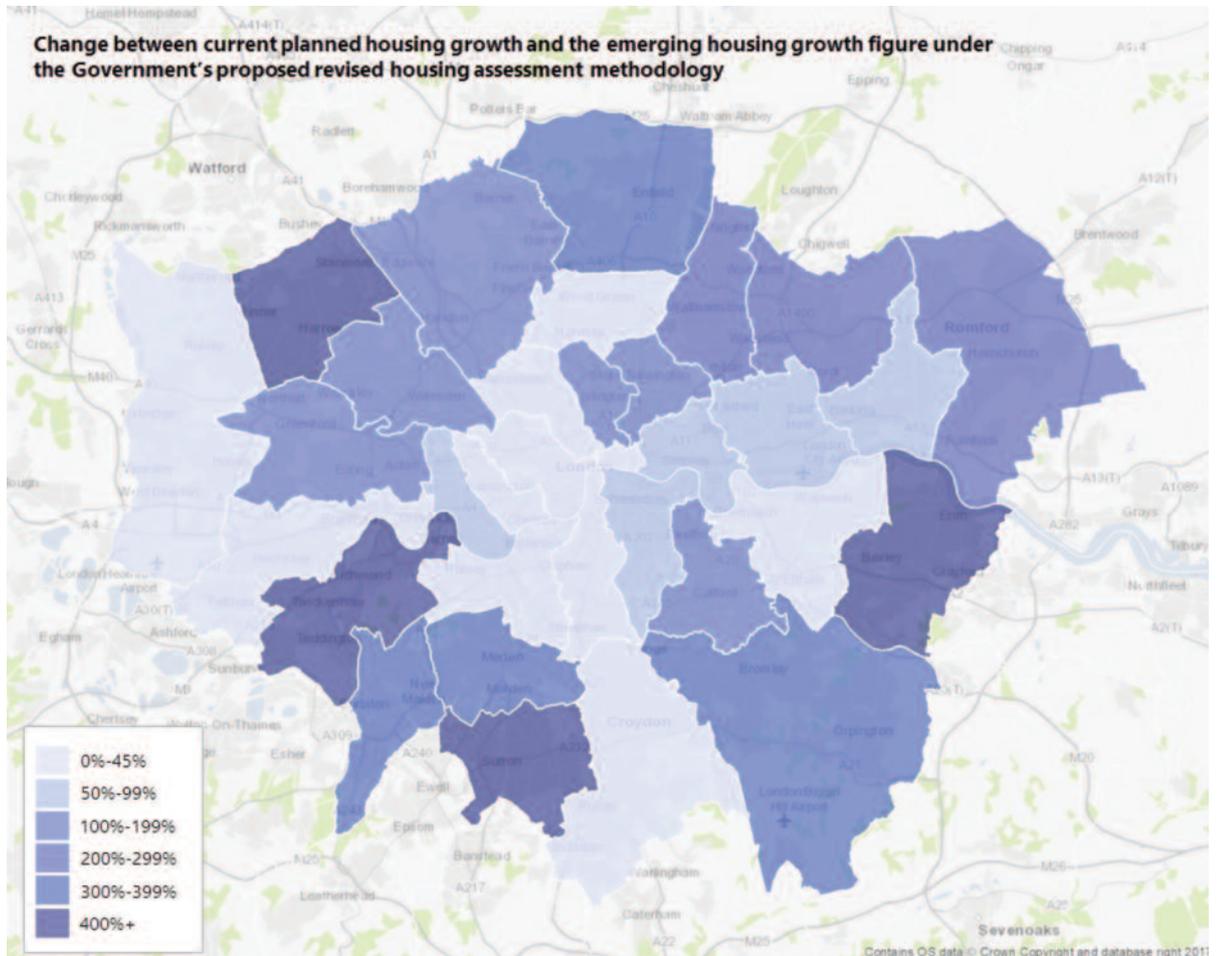


# Brownfield Registers and Permission in Principle

Are these the keys to unlocking London's land? asks Dominick Veasey



In April 2017 the brownfield land register and permission in principle legislation came into force. With the goal of unlocking previously unavailable brownfield land, the new legislation will make brownfield registers and permission in principle obligatory for all local planning authorities. As a result, local councils throughout the country will need to publish their registers by 31 December 2017.

As part of the changes, brownfield registers will consist of two parts. Part 1 makes it compulsory for local councils to evaluate brownfield sites that are at least 0.25ha or is able to accommodate at least five homes. If following public consultation, local councils decide to allocate the land for residential development, the Part 1 land will subsequently be included within the Part 2 register.

Amongst other things, Part 2 requires that local councils state the planning status of the land. This includes a description of any proposed housing development and the minimum and maximum number of dwellings the land can support.

Once land is included within Part 2, permission in principle has been established. All that is theoretically required is for

developers or landowners to discharge any prescribed technical consent details. Local councils have the discretion to specify within Part 2 what additional information and detail is required at the technical consent stage; a process not dissimilar to discharging reserved matters attached to any outline planning permission.

Through these measures, the Government intends to both accelerate housebuilding and safeguard greenfield land, including the green belt. Whilst these aims are admirable, the outlook in practice is less optimistic.

In preparing the register, local councils are required to consider the development plan, national policy and other material considerations. An area of conflict and a potential barrier to sites coming forward will be where there is any uncertainty associated with development plan conflict or policy interpretation. One can only speculate, but if developers and landowners wish to discuss the prospects of their land progressing to the Stage 2 register, local councils may deviate to the formal pre-application process, requiring the submission of sometimes costly information upfront. Frustratingly for some, there no right to appeal if >>>



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>>> the council decides not to allocate the land for residential development within the Part 2 register.

Launched almost twenty years ago, the 'brownfield first' policy was first introduced by the 'Planning for Communities of the Future' white paper. In order to provide momentum to the policy, it was reinforced in the Planning Policy Statement 6 (PPS6), which asked local authorities to prioritise brownfield sites and 'take stronger action' to redevelop such land. Within the six years covered by PPS6 prior to the National Planning Policy Framework (NPPF), official statistics demonstrate that on average only 62% of the homes built were developed on brownfield land.

It is important to note that the prioritisation of brownfield land for residential development is also a key principle within the NPPF, introduced in 2012. Furthermore, the Housing White Paper, published in February 2017, states that the Government intends to amend the NPPF to indicate that 'great weight' should be attached to the value of using suitable brownfield land within settlements for homes.

Indeed, national policy has long focused on brownfield land. As a review of councils' five-year land supply trajectories show, the majority of brownfield sites, where councils have no policy concerns, are already included. Furthermore, trajectories also usually include an allowance for unidentified small-scale brownfield windfall sites and increasingly an allowance for office to residential conversions.

As a result, the industry will need to question the extent to which the new registers will identify and bring forward any meaningful additional brownfield land for housing. Additionally, with a supportive national brownfield policy and many local plans containing similar locally based policies, it is unclear how the registers will provide any greater redevelopment certainty for landowners and developers.

The potential for brownfield registers to unlock additional land within London is even more uncertain. The London Plan already seeks at least 96% of new residential development to be on previously developed land. Monitoring data from the GLA confirms that over the past decade, the London authorities have collectively achieved an annual average of 97.6%. There appears to be minimal scope for improvement.

Furthermore, in 2015 the Chancellor and the Mayor of London established the London Land Commission with the objective of identifying land in public ownership and help coordinate and accelerate the release of land for homes. At the time, the commitment was to ensure that all the capital's brownfield sites were developed by 2025.

It can be argued that London is already leaving no stone unturned in trying to meet its housing needs on brownfield sites. Indeed, against the London-wide housing requirement of 49,000 homes per annum, which was acknowledged to be too low, the Greater London Authority's (GLA) rigorous assessment of potential housing capacity can only currently identify land for 42,000 new homes each year.

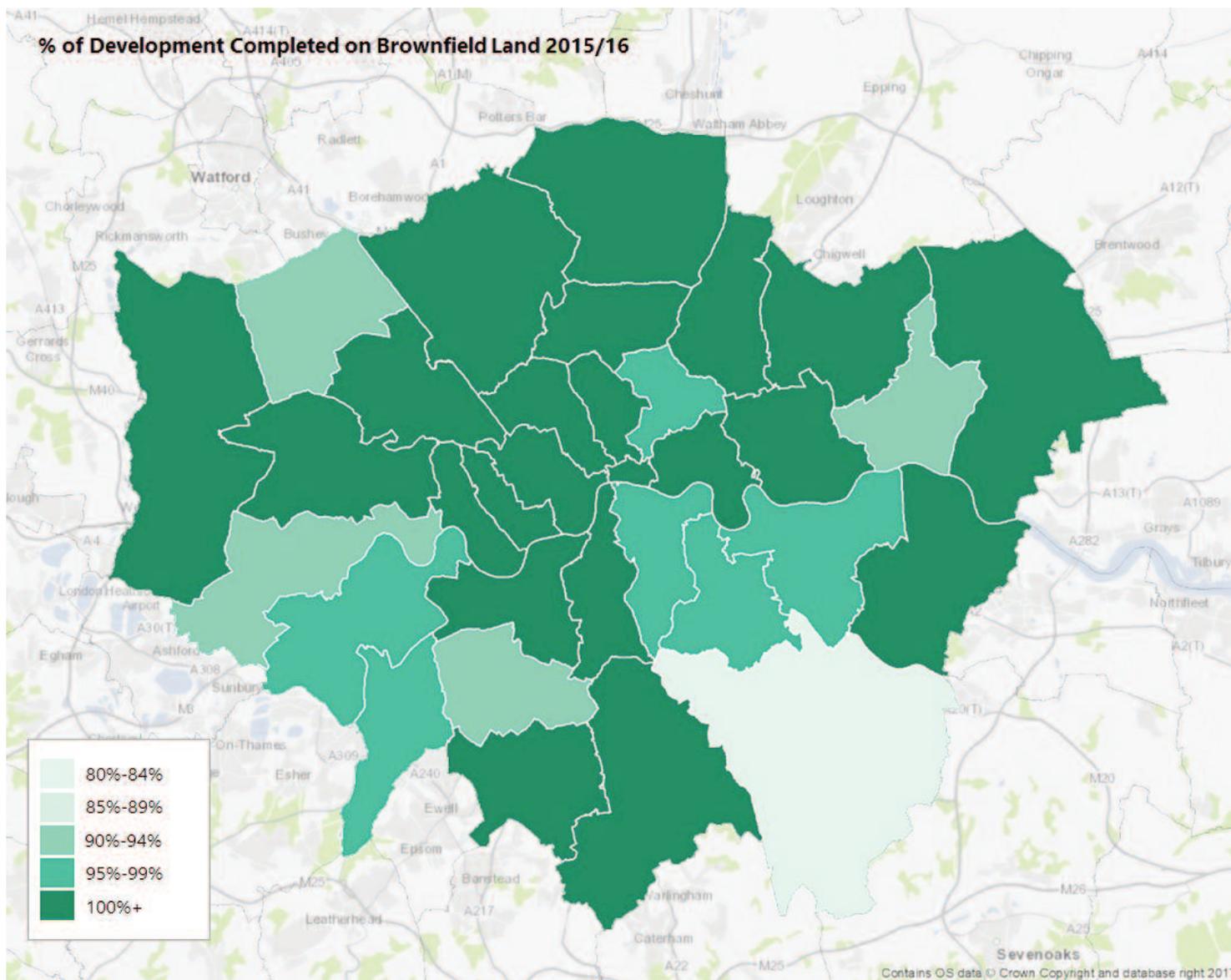
This was discovered before the Government's revised housing assessment methodology consultation document was published, suggesting that London needs 73,000 new homes a year. Within individual Borough's the Government's revised methodology suggests staggering increases in the level of housing currently planned for within Local Plans. This itself will create additional challenges of delivery.

As reaffirmed by these new measures, maximising the potential of brownfield land is a key component to solving the housing crisis. However, even if coupled with maximising density and building tall, this should not be seen as the silver bullet for boosting housing supply; particularly in the context of London. As numerous studies have shown, brownfield sites alone cannot provide the land supply necessary. Both greenfield land and Green Belt land must be also considered.

Despite being the focus of this latest legislative initiative, it is clear that uncertainty over the principle of residential development is not the primary obstacle for most brownfield site developments. In fact, matters such as land remediation costs, complicated multiple land ownerships, conflicting neighbouring land uses and difficult design issues continue to be the core issues causing delays for housing development on brownfield land. Although permission in principle and brownfield registers

Monitoring Year	% of Development (Residential) Completed on Brownfield Land: London Wide	
	by units	by site area
2006/07	97.2	96.5
2007/08	96.6	94.8
2008/09	98.9	98.1
2009/10	98.8	97.9
2010/11	97.1	95.7
2011/12	97.6	95.0
2012/13	95.7	95.3
2013/14	97.0	96.6
2014/15	98.7	96.7
2015/16	98.1	97.2
Average	97.6	96.4

Source: Based on Table 1.2 of the London Plan Annual Monitoring Report 2015/16



are certainly useful, they will be unable to resolve these fundamental problems.

Whilst there is no doubt that these registers will increase potential housing development in theory, it seems that the only true beneficiary will be the Government, who will be able to prove that they have met their pledge to get planning permission in some form for 90% of suitable brownfield sites before the next election. On the ground however, results may prove to be less positive, particularly in meeting London's acute housing need. In the buildup to the permission in principle legislation being implemented, the Government stated that emerging local plans and neighbourhood plans would have the ability to apply permission in principle to emerging plan allocations. However, the legislation is notably and disappointingly absent of such provisions.

Given the brownfield land register provisions, the emphasis on the permission in principle via emerging plan allocations would have been primarily focused on greenfield sites. With most greenfield land surrounding the capital being designated as

Green Belt, any neighbourhood planning bodies within London would have been unable to apply the permission in principle mechanism and allocate meaningful greenfield site allocations.

Furthermore, a persistent reluctance by national and local government to accept that a fundamental review of the Metropolitan Green Belt is necessary, after more than 50 years, also means that very few local plans within London would propose to allocate greenfield land and apply the permission in principle process; even if legislation was forthcoming.

Whilst this is the case for London, the issue of emerging local and neighbourhood plans being unable to apply the permission in principle mechanism is considered to be a missed opportunity across the country. In the meantime, the industry will hope that the problem is addressed over the coming months, particularly as the Government implements its wider package of planning system reforms as outlined in the Housing White Paper. It continues to be a time of challenge and uncertainty although one constant remains - there is need and demand for significantly more new homes across England. ■