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STATUTORY INSTRUMENTS

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**2017 No. 403**

**The Town and Country Planning (Brownfield  
Land Register) Regulations 2017**

**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 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.

(2) In this regulation—

“achievable” in relation to residential development of any land means that, in the opinion of the local planning authority, the development is likely to take place within 15 years of the entry date, having regard to—

- (a) any information publicly available; and
- (b) any relevant representations received;

“available for residential development” in relation to any land means—

- (a) the relevant owner (or, where there is more than one, all the relevant owners), has expressed an intention to sell or develop the land and at a date not more than 21 days before the entry date there is no evidence indicating a change to that intention, having regard to—
  - (i) any information publicly available on that date; and
  - (ii) any relevant representations received;
- (b) the developer has expressed an intention to develop the land and at a date not more than 21 days before the entry date there is no evidence indicating a change to that intention, having regard to—
  - (i) any information publicly available on that date; and
  - (ii) any relevant representations received; or
- (c) in the opinion of the local authority 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, having regard to—
  - (i) any information publicly available on that date; and
  - (ii) any relevant representations received;

“the developer” means the developer in control of the land on the prescribed date;

“heritage asset” means a building, monument, site, place, area or landscape which has been identified by the local planning authority as having heritage interest or is—

- (a) a property appearing on the World Heritage List kept under article 11(2) of the UNESCO Convention for the Protection of the World Cultural and National Heritage adopted at Paris on 16th November 1972<sup>(1)</sup>;
- (b) included in the schedule of monuments compiled by the Secretary of State under section 1 of the Ancient Monuments and Archaeological Areas Act 1979 (schedule of monuments)<sup>(2)</sup>;
- (c) a listed building within the meaning of section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990<sup>(3)</sup> (listing of buildings of special architectural or historic interest);
- (d) a garden or other land included in a register compiled by the Historic Buildings and Monuments Commission for England under section 8C of the Historic Buildings and Ancient Monuments Act 1953<sup>(4)</sup>; or
- (e) an area designated as a conservation area under section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (designation of conservation areas);

“owner” in relation to any land means any person who—

- (a) is the estate owner in fee simple; or
- (b) is entitled to a tenancy granted or extended for a term of years certain of which not less than 15 years remain unexpired;

“the prescribed date” is the day 42 days before the entry date for the land;

“the relevant owner” means in relation to any land, the owner of the land on the prescribed date;

“relevant representations” in relation to the definition of “achievable”, paragraphs (a), (b) and (c) of the definition of “available for residential development”, and paragraph (d) of the definition of “suitable for residential development”, means—

- (a) as regards land to be entered in Part 1, any representations which are—
  - (i) relevant to the definition or paragraph of the definition in question; and
  - (ii) received by the local planning authority—
    - (aa) as a result of any procedures carried out in accordance with paragraph (6)(a) of regulation 5,
    - (bb) before the end of the relevant period specified in accordance with paragraph (6)(b) of regulation 5;
- (b) as regards land to be entered in Part 2, any representations which are—
  - (i) relevant to the definition or paragraph of the definition in question; and
  - (ii) received by the local planning authority—
    - (aa) as a result of any of the procedures carried out in accordance with paragraph (7) of regulation 5,
    - (bb) by the date, or before the end of the relevant period, specified in accordance with regulation 9 or 13, as the case may be; and

“suitable for residential development” in relation to any land means that the land at the entry date—

(1) See <http://whc.unesco.org/en/list>

(2) 1979 c.46.

(3) 1990 c.9.

(4) 1953 c.49. Section 8C was inserted by section 33 of, and paragraph 10 of Schedule 4 to, the National Heritage Act 1983 (c. 47). The Historic Buildings and Monuments Commission of England is also known as “Historic England”.

- (a) has been allocated in a local development plan document<sup>(5)</sup> for residential development;
- (b) has planning permission for residential development;
- (c) has a grant of permission in principle for residential development; or
- (d) is, in the opinion of the local planning authority, appropriate for residential development, 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.

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<sup>(5)</sup> See section 37 of the Planning and Compulsory Purchase Act 2004 (c.5).