

Permission in Principle

Town Planning in the NHS
NHS Property Services Guide



Contents

Glossary of terms.....	2
Introduction.....	3
Permission in Principle: BLR route incorporating Part 1 and Part 2.....	5
Permission in Principle: Direct Applications on proposals featuring less than 10 units	7
Technical Details Consent	9
Is there Merit in Pursuing Permission in Principle?.....	11
Permission in Principle and the NHSPS Portfolio	13
Summary and Conclusions:	14
Further Reading.....	15

Glossary of terms

PIP	Permission in Principle
TDC	Technical Details Consent
BLR	Brownfield Land Register
SHLAA	Strategic Housing Land Availability Assessment
LPA	Local Planning Authority
MHCLG	Ministry of Housing Communities and Local Government
NPPF	National Planning Policy Framework (2019)
NHSPS	NHS Property Services
2017 Act	The Housing and Planning Act 2016
2017 Regulations	The Town and Country Planning (Brownfield Land Register) Regulations 2017
2017 Order	The Town and Country Planning (Permission in Principle) Order 2017

Introduction

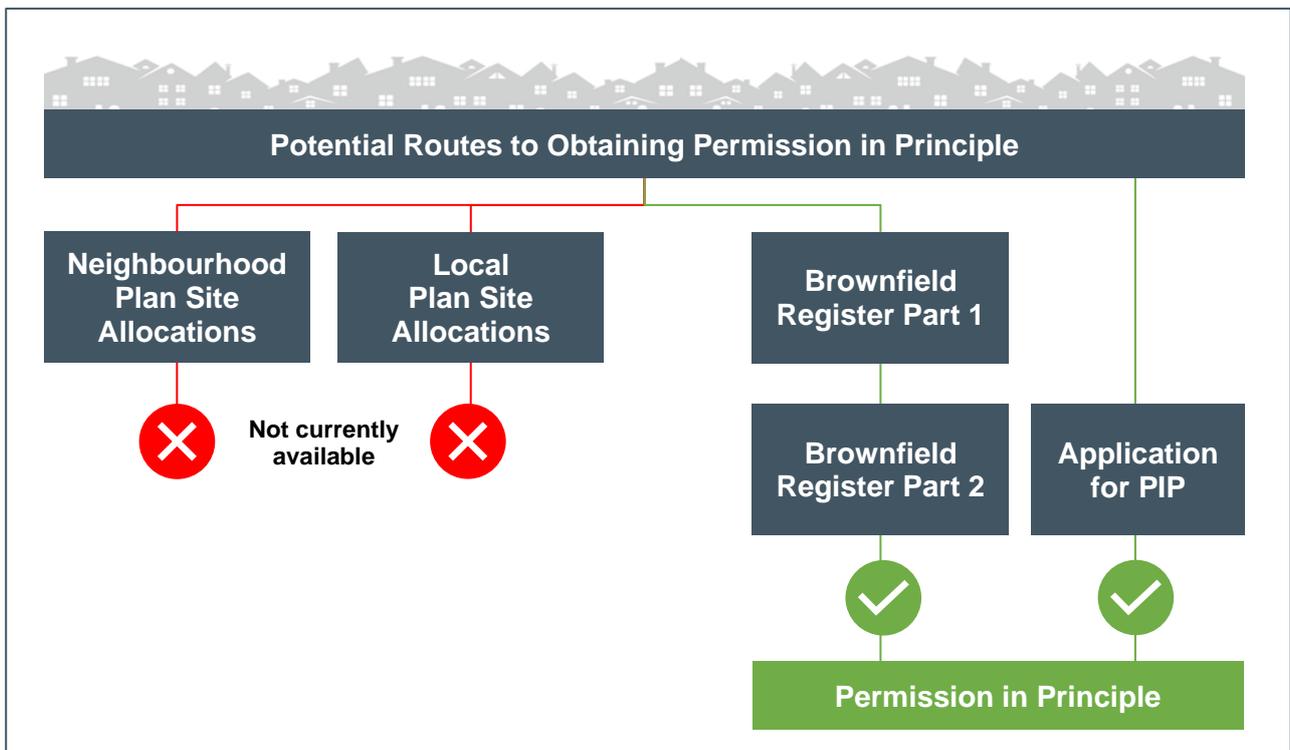
Permission in Principle (PiP) has introduced a faster and cheaper route to obtaining planning permission for the principle of residential-led development. It provides an opportunity for the NHS to establish whether a site is suitable for housing, not unsimilar to pre-application advice but with a binding outcome. In addition, non-residential development may also be given permission in principle providing housing occupies the majority of the floorspace of the overall scheme.

Permission in Principle (PiP) is a planning mechanism used to obtain planning permission for residential or residential-led developments.

As a process it separates the Local Planning Authority's consideration of matters regarding the principle of the proposed development from the technical details of the development. When granted, it provides a binding decision that confirms that residential or residential-led development is acceptable on a site.

The concept of PiP was introduced by the Ministry of Housing, Communities and Local Government (MHCLG) through the Housing and Planning Act 2016 ('2016 Act'), the Town and Country Planning (Brownfield Land Register) Regulations 2017 ('2017 Regulations') and the Town and Country Planning (Permission in Principle) Order 2017 ('2017 Order').

Figure 1: Potential Routes to Obtaining Permission in Principle

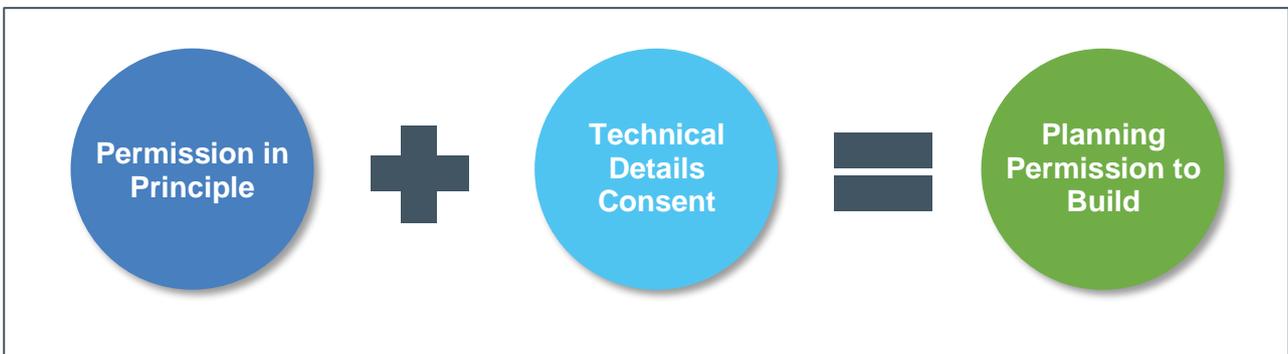


As outlined in Figure 1, there are currently two active routes to obtaining consent via PiP:

- Inclusion in both parts 1 and 2 of the Local Planning Authority’s (LPA) brownfield land register (BLR)
- Submission of a direct PiP application for proposals featuring less than 10 units, which are granted by the Local Planning Authority (LPA)

Both methods of attaining PiP have multiple stages - the first stage establishes whether a site is suitable in-principle and the final ‘technical details consent’ (TDC) stage is when the detailed development proposals are assessed. As annotated in the diagram below, once TDC consent is approved, a site benefits from full planning permission.

Figure 2: Illustration of the relationship between PiP and TDC



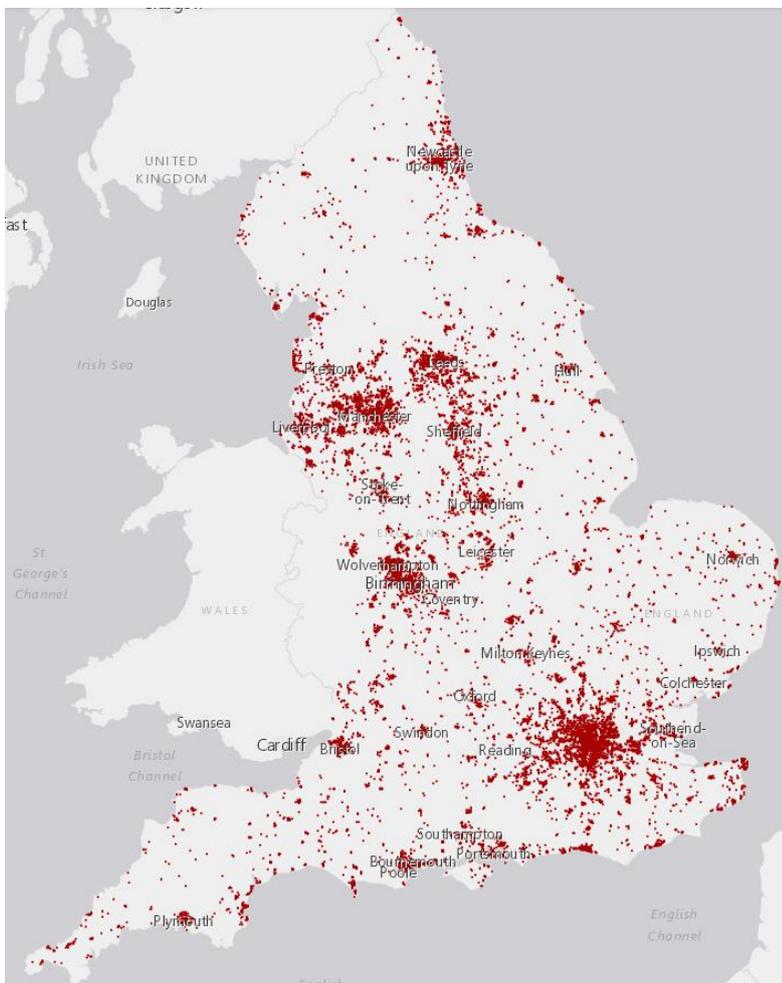
For the NHS portfolio, pursuing PiP applications may offer a faster and more cost-effective way to establishing the principle of residential or residential-led development on a site. This may prove particularly beneficial when seeking to establish enabling development to deliver new healthcare floorspace or when looking to maximise site values prior to the disposal of surplus NHS land.

Permission in Principle: BLR route incorporating Part 1 and Part 2

Part 1 of the BLR

[The Town and Country Planning \(Brownfield Land Register\) Regulations 2017](#) requires all LPAs to publish a register in relation to brownfield land in its area. The register consists of Part 1 (land suitable for residential development) and Part 2 (land allocated for residential development).

Figure 3: Cartographical representation of all the brownfield sites in the UK



Source: www.housing.org.uk

CRITERION TO BE PUT ON THE BROWNFIELD LAND REGISTER (PART ONE)

As defined in paragraph (1)(b) of regulation 3 of the Town and Country Planning (Brownfield Land Register) Regulation (2017):

- a) The land has an area of at least 0.25 hectares or can support at least 5 dwellings;
- b) The land is suitable for residential development;
- c) The land is available* for residential development;
- d) Residential development of the land is achievable*

*Specific criteria is defined in 2017 Regulations

The principle of encouraging the re-use of brownfield land is well embedded in the National Planning Policy Framework (NPPF, 2019) which states that planning policies and decisions should ‘give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs’ (Paragraph 118c, NPPF, 2019) and that local planning authorities

(LPAs) are expected to ‘*make as much use as possible of suitable brownfield sites and under utilised land*’ (Paragraph 137a, NPPF, 2019).

In addition to requiring the formation of Part 1 BLR’s the 2017 Regulations require LPA’s to review entries on an annual basis. Any land being entered into Part 1 of the BLR needs to adhere to the criterion as described in the ‘2017 Regulations’ (outlined on page 6). LPAs were tasked with preparing and maintaining a BLR (Regulation 3 of the ‘2017 Regulations’).

In forming a BLR Part 1, many LPAs included sites that had been identified from existing data sources such as planning application records, the national register of public sector land, empty property registers and national land use databases. In addition to this, thorough audits of available land, [Strategic Housing Land Availability Assessments \(SHLAA\)](#) and ‘Call for Sites’ consultations. This provided opportunities for landowners and developers to promote their sites. Similarly, Regulation 17 of the ‘2017 Regulations’ will also generate the opportunity to promote sites for inclusion on the BLR list during the LPA’s annual BLR review.

Part 2 of the BLR: Permission in Principle

Once a site has been identified in Part 1 of the BLR, PiP can then be granted by the LPA at any time by including a site from the Part 1 BLR into a Part 2 BLR (granting PiP). The process of gaining PiP via BLR Part 2 is therefore entirely at the discretion of the LPA.

It should be noted that whilst there is currently no obligation for the LPA to bring forward sites into a Part 2 BLR, there are already 11 LPAs in England who have granted PiP to sites that existed within their BLR Part 1 (as identified above). Some sites (e.g. EIA / Habitats Development) may also be automatically excluded from progressing to Part 2 BLR’s.

When a site is included in a Part 2 BLR, LPAs are required to produce a site notice and online notice as a means of confirming their intentions for the site. The scope of a PiP is limited to location, land use and amount of development.

Where PiP is granted through a Part 2 BLR allocation, the default duration of that permission is 5 years. However, the permission cannot be implemented without first obtaining the approval of a subsequent TDC application.

LIST OF LOCAL PLANNING AUTHORITIES CURRENTLY* PROCEEDING TO PART 2 OF THEIR BROWNFIELD LAND REGISTERS:

- Blackburn with Darwen Council
- Breckland District Council
- East Lindsey District Council
- East Riding of Yorkshire Council
- Hambleton Council
- Mansfield District Council
- North Devon Council
- North Tyneside Council
- Scarborough Borough Council
- Sefton Metropolitan Borough Council
- Nottingham Council

* Research carried out by NHSPS in February 2019.

Permission in Principle: Direct Applications on proposals featuring less than 10 units

In addition to the sites being entered into Part 2 of the register by LPAs, it has been possible since June 2018 for PiP to be gained via the submission of a valid application from an applicant. This route to gaining permission for housing-led development is to be utilised only for minor development (standardly defined as applications of nine residential units or less, with the option of including ancillary commercial, office and community floorspace, and/or on a site of less than 1ha) (MHCLG, 2015). However, unlike Part 2 of the BLR, PiP can be sought for land that is not considered to have been previously developed- thus encouraging a broader scope for PiP application sites.

In addition to the above, applicants considering a PiP application would have to ensure that their sites were not subject to the following exclusions:

- A Householder development;
- Major Development (10+ Units);
- Habitats development;
- Development linked to minerals winning or working; or
- An Environmental Impact Assessment development.

Upon receipt of a valid application, a decision would be reached by the LPA to determine whether permission in principle was acceptable (LPAs have a statutory limit of 14 days consultation - which follows standard planning protocol of notifying internal and external stakeholders - and 5 weeks to provide a decision).

Figure 4: Sample Permission in Principle Application Form

3. Description of the proposed development including any non-residential development

Net number of dwellings: Min: Max: Amount of non-residential use(s) (e.g. floorspace or area):
(Can be expressed as a range, a maximum or a fixed amount)

4. Site information

Description and amount of existing use(s) of site:

Site Area (hectares):
If you propose to attach any supporting information relating to known or likely constraints on the site please briefly describe what information you intend to provide.

5. Site Address Details

Please provide the full postal address of the application site.

Unit: House number: House suffix:
House name:
Address 1:
Address 2:
Address 3:
Town:
County:
Postcode (optional):
Description of location or a grid reference - must be completed if postcode is not known:
Easting: Northing:
Description:

6. Authority Employee / Member

It is an important principle of decision-making that the process is open and transparent. For the purposes of this question, "related to" means related, by birth or otherwise, closely enough that a fair-minded and informed observer, having considered the facts, would conclude that there was bias on the part of the decision-maker in the local planning authority.

Do any of the following statements apply to you and/or agent? Yes No

If Yes, please provide details of their name, role and how you are related to them

With respect to the authority, I am:
(a) a member of staff
(b) an elected member
(c) related to a member of staff
(d) related to an elected member

The application form for PiP, as shown in Figure 3, requires minimal supporting material. To submit a valid PiP application, applicants need to provide a completed application form, the correct application fee and the site plan denoting the land to be considered for PiP. The application fee for the submission of a site for PiP is currently calculated as £402 per 0.1 hectares of the site.

Alongside the mandatory information regarding the applicant's contact details, the PiP application form requires the provision of the following information: the site address, site area, details of minimum and maximum number of homes and details of the proposed development.

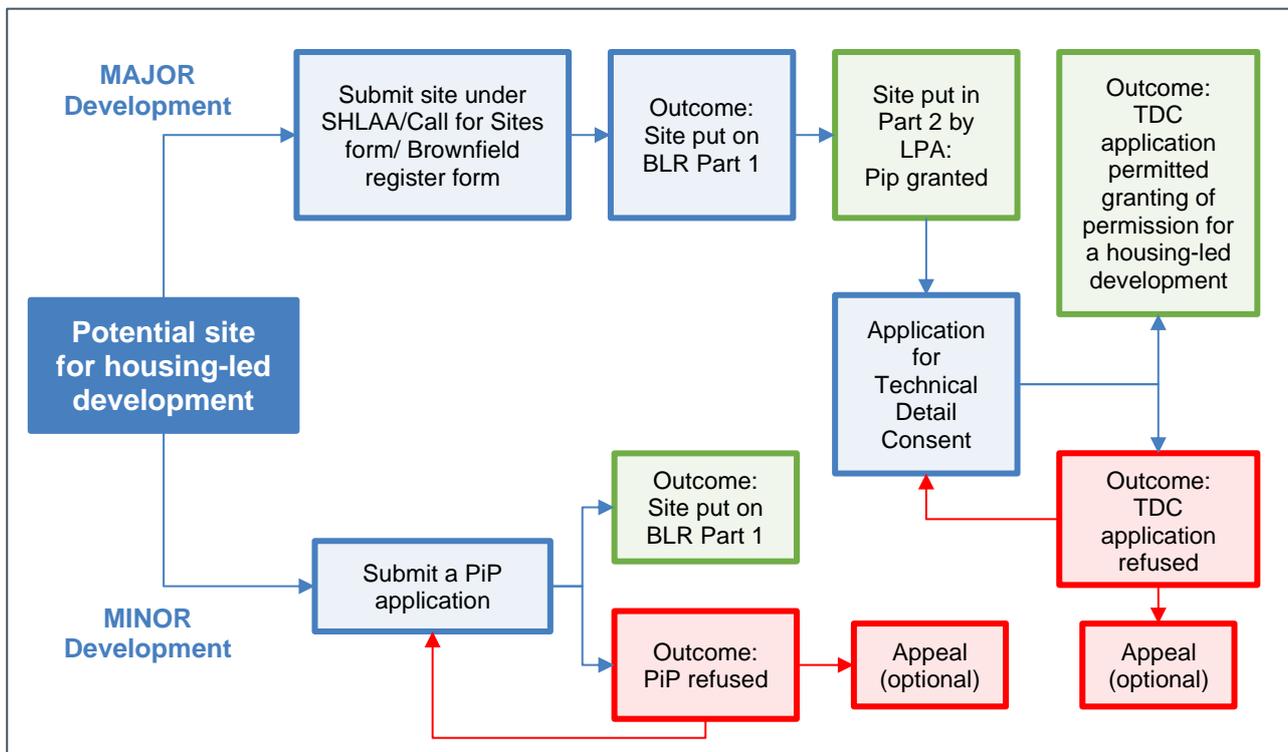
Whilst a supporting statement is not a validation requirement for this type of application, we recommend that a detailed supporting statement is submitted with these types of applications, in order to ensure that the suitability of the sites are robustly promoted and duly considered by the LPA.

Where granted, as is the same with PiP via the BLR Part 2, a TDC application would then be required to obtain full planning permission and progress the scheme. Where PiP is granted by application, the default duration of that permission is 3 years from the decision date.

Technical Details Consent

As outlined in the routes above, the first stage of PiP establishes whether a site is suitable in-principle; therefore, an application for TDC can only be considered by the Council once PiP has been granted. The scope of what can be considered as a material consideration in a TDC application is extensive and requires fully addressing all criteria that would be assessed through a full planning application, albeit with the principle of development already being agreed.

Figure 5: Routes to Full Planning Permission via Permission in Principle



In all instances, regardless of the route to acquire PiP, where a TDC application is refused, the PiP consent is unaffected. However, it should also be noted that a TDC application cannot be considered by the LPA if a PiP consent has expired.

As PiP is a relatively new planning tool it is important to understand which route works best for promoting a site. Therefore, the similarities and differences in the routes to obtain PiP should be fully understood ahead of putting forward a site to ensure that the appropriate route has been taken and delays and unnecessary costs are avoided.

Whilst government guidance provides commentary on the specifics of the PiP process, the table included below summarises the conditions of PiP via the application route and PiP via the LPA’s BLR Part 2 route:

Figure 6: Comparison between PiP Application and BLR Part 2 Application Routes

FAQs For PiP	PiP Planning Application	Brownfield Register Part 2
What type of development can be sought under permission in Principle (PiP)?	<ul style="list-style-type: none"> Minor development: Up to 9 residential dwelling houses and up to 1000sqm of commercial floorspace Developments utilising brownfield and greenfield land 	<ul style="list-style-type: none"> Major development: 10 dwellings or more and up to 1000sqm of commercial floorspace Developments utilising brownfield land only
Are there any exemptions or limitations to obtaining PiP	The scope of PiP is limited to location, land use and the amount of development. Sites that are subject to EIAs or habitats legislation, will not be considered for PiP.	
	Applications for more than 9 residential units or with commercial floorspace of more than 1000sqm are not eligible for the PiP application route.	Proposed development must be on previously developed sites, i.e. 'brownfield land'.
Can a decision to refuse PiP be appealed?	Yes	No
Can there be external decision-making in PiP?	Yes: Secretary of State has power to call-in applications	No
Is there a time period for determining PiP?	Yes: 5-week statutory target to determine an application (faster than the 8-week statutory target for determining a minor planning application)	Part 1 BLR: No – However LPAs must conduct an annual review of their BLR
		Part 2 PiP: No – Determined at the discretion of the LPA
Is there a fee for PiP?	Yes – currently £402 per 0.1ha. whilst the fee for non-material amendments to a PiP is £195. (cheaper than the £426 per 0.1 ha and £234 fee for amendments to a standard application)	No
How long does the PiP consent last?	PiP consent lasts 3 years	PiP consent lasts 5 years
Is there a time limit to apply for technical details consent (TDC) after PiP is granted?	3 years	5 years
Is there a time period for determining TDC?	Yes: The statutory time limits are 5 weeks	Yes: The statutory time limits are 10 weeks for major development (unless an an EIA is required, in which case a 16-week limit applies).
Is there a fee for TDC?	Yes: TDC applications are treated under the fee regulations as applications for full planning permission	Yes: TDC applications are treated under the fee regulations as applications for full planning permission

Is there Merit in Pursuing Permission in Principle?

There are several reasons for pursuing PiP alongside, or instead of, seeking pre-application advice or alternative applications.

Potential to Reduce Planning Risk through a binding decision

Pre-application advice is often sought from the LPA by the NHS in order to establish the principle of residential development on surplus sites prior to their disposal. The aim is usually to reduce planning risk and increase the value of disposal assets. However, pre-application advice is not binding but provides the informal opinion of a LPA case officer. There are also no statutory timescales for receiving pre-application feedback, despite some LPA's offering indicative timescales.

Whilst pre-application advice can be a material consideration in the planning application process, PiP offers a planning route with a binding outcome. The granting of PiP, even without proceeding to TDC stage, therefore provides definitive confirmation that minor residential (or residential led) development is feasible. This may further increase the desirability and value of surplus NHSPS sites.

Is PiP different to an outline planning application?

A key difference between a PiP application and an outline planning application is that the statutory determination period for a PiP application is only 5 weeks, whilst this is 8 weeks for an equivalent outline planning application. In addition to this, the application fee for a PiP application is also comparatively less; firstly, in terms of application fee but also potentially in respect of implied costs of the level of information that is likely to be required for an outline application.

Notwithstanding the above, it should be noted that the scope of PiP is limited to location, land use and the amount of development rather than including other reserved matters that could be considered through an outline planning application.

Figure 7: Comparison between PiP Application and Outline Application Routes

	PiP Application Route	Outline Application Route
 <p>Validation checklist: What is required?</p>	<ul style="list-style-type: none"> Completed application form Application fee Site Plan 	<ul style="list-style-type: none"> Completed application form Application fee Plans and Drawings Ownership Certificate and Agricultural Land Declaration Design and Access statement Provision of reasonable assessment (in terms of LPAs' Development Plans and NPPF)
 <p>Type of Development: What is it used for?</p>	Housing-led developments although there can be commercial floorspace included.	Any form of development.
 <p>Application fees: What is the current cost?</p>	£402 per 0.1 hectares	£462 per 0.1 hectares
 <p>Determination period: How long does it take?</p>	5 weeks	13 weeks for applications for major development and 8 weeks for all other types of development (unless an application is subject to an EIA in which case a 16-week limit applies.)
 <p>Planning implications: How is value realised?</p>	The granting of PiP means an LPA has established the principle of housing.	The granting of outline permission means a LPA has granted permission and established the principle of development.
 <p>Following up: What is required to progress with development?</p>	<p>Technical details consent application:</p> <ul style="list-style-type: none"> Must be made in 3 years following granting PiP. Matters to be considered: Appearance, Means of Access, Landscaping, Layout and Scale Application must also provide: national validation requirements and local validation requirements 	<p>Reserved matters application:</p> <ul style="list-style-type: none"> Must be made in 3 years following granting outline permission (which will make the approval extend for another 2 years.) Matters to be considered: Appearance, Means of Access, Landscaping, Layout and Scale

Permission in Principle and the NHSPS Portfolio

To further understand current PiP activity amongst LPAs in England, we manually reviewed all relevant LPA websites to establish whether LPA's had progressed to Part 2 of their BLR's. This identified 11 LPAs which are progressing with Part 2 registers. We subsequently cross referenced the NHSPS property database against these 11 LPAs and this highlighted 56 potential sites in these areas.

Following a process of elimination to identify suitability, we contacted NHSPS Transaction Managers and have been pursuing appropriate sites to Part 1 and Part 2 BLR's. We have also identified several disposal sites that could benefit from direct PiP applications and will be submitting these applications imminently.

From our initial pursual of PiP applications and our promotion of sites to BLR Parts 1 and 2, we have noted the following:

- The preparation of PiP applications has not required extensive cost or time to NHSPS as applications have been prepared in house. However, despite detailed information to assess schemes not technically being required until TDC stage, it is clear that LPA's still need sufficient supporting information with PiP applications e.g. to justify the loss of any existing uses on the site. Therefore, our initial PiP applications are being submitted with comprehensive supporting statements to demonstrate full compliance with planning policy.
- Our work in pursuing PiP applications and in promoting surplus NHS sites for inclusion in BLR's has not always taken place in isolation. For example, some of our projects on sites that have been surplus to NHS requirements have sought to obtain a binding decision on the principle of residential development via PiP whilst simultaneously seeking a positive pre-app response from the Council for a larger scheme, featuring more than 10 units.
- Our promotion of sites for inclusion on emerging LPA BLR's has been completed very efficiently at NHSPS utilising our existing national planning policy consultation monitoring database. It's clear that where sites will benefit from being included in BLR's, NHSPS will need to continue making timely and concise contact with LPA's to promote sites.

Summary and Conclusions:

There are several potential benefits to pursuing the use of PiP in the management of the NHS estate. In light of this, we would recommend the following:

- The NHS should monitor national planning policy consultations on emerging BLR's to ensure that suitable NHS sites are promoted, when appropriate;
- PiP via direct application or BLR's should always be considered alongside the full range of existing routes that are pursued to establishing the principle of residential development;
- Any PiP application submitted by the NHS, regardless of the LPA's minimal validation requirement, should provide a supporting statement and justification against planning policy requirements, including the potential loss of D1 or C2 uses, as appropriate; and
- Information on NHS experiences of obtaining PiP should be updated and shared regularly so that all stakeholders can learn from their experiences of dealing with the process of obtaining PiP

In summary, PiP offers the NHS an opportunity to pursue a more simplified, binding route to establishing the principle of residential or residential-led development on sites. Reduced application fees and faster statutory determination periods make this an attractive alternative for the NHS, but this should always be considered alongside existing pre-app, outline and full planning application options, in the context of disposal and development goals.

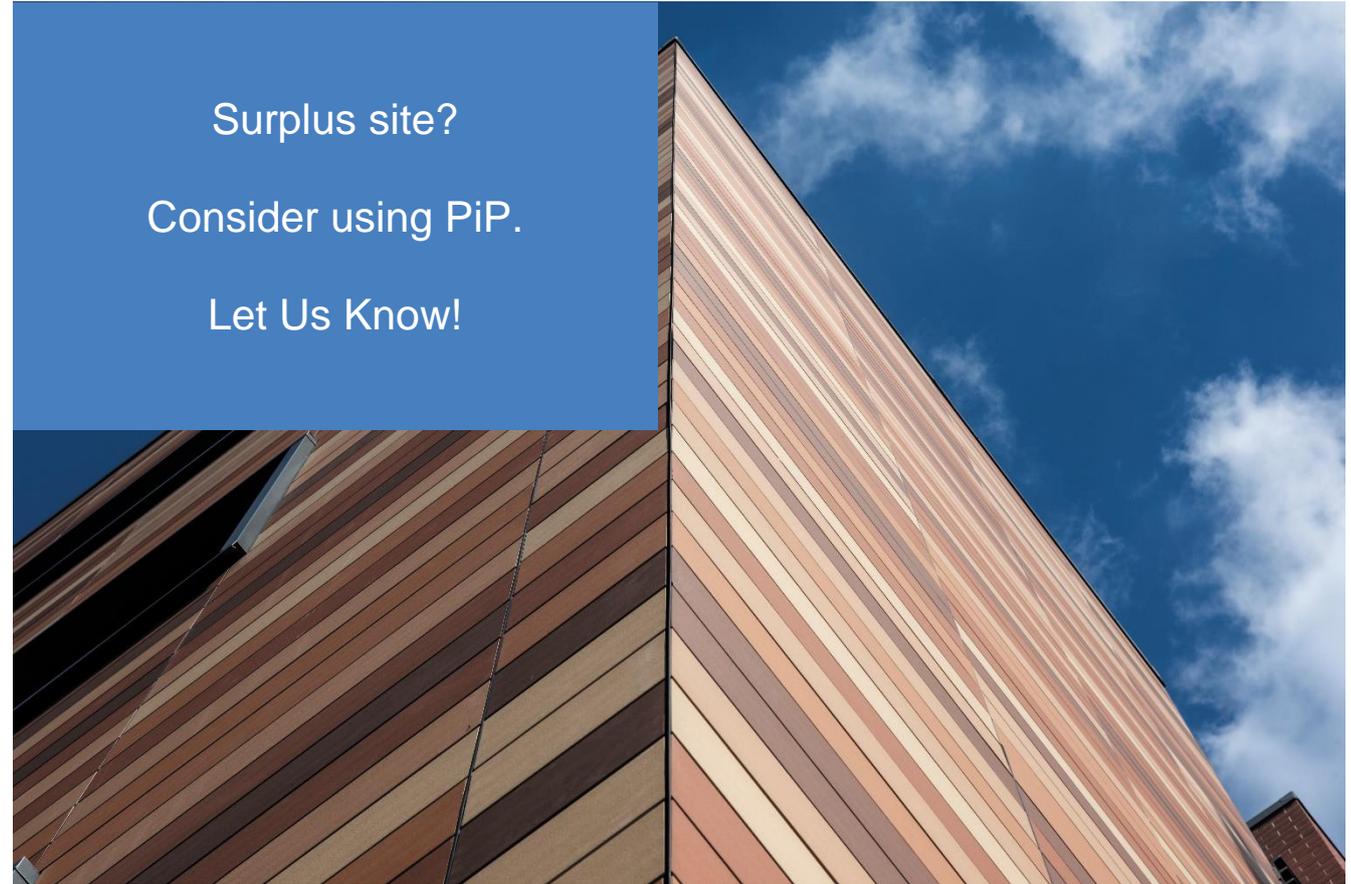
Further Reading

- The Town and Country Planning (Brownfield Land Register) Regulations 2017
<http://www.legislation.gov.uk/uksi/2017/403/contents/made>
- The Town and Country Planning (Permission in Principle) Order 2017
<https://www.legislation.gov.uk/uksi/2017/402/contents/made>
- Ministry of Housing, Communities and Local Government Guide to Permission in Principle
<https://www.gov.uk/guidance/permission-in-principle>
- The Housing and Planning Act 2016
<http://www.legislation.gov.uk/ukpga/2016/22/contents/enacted>

Surplus site?

Consider using PiP.

Let Us Know!



For further information on this matter, please do not hesitate to contact a member of the town planning team via Aahsan.Rahman@property.nhs.uk or Town.Planning@property.nhs.uk