



# BROWNFIELD PASSPORTS

## **A DISCUSSION PAPER RESPONSE**

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**PREPARED AND SUBMITTED BY**

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## Could national policy be clearer if it were explicit that development on brownfield land within urban settlements is acceptable unless certain exclusions apply?

1. There are various important reasons for greater emphasis on brownfield development. This discussion paper spells these out, in terms of not just the creation of more homes but making better use of existing infrastructure and access to jobs, revitalising our town and city centres, and for social and environmental reasons. This discussion paper is therefore important in thinking about how we underpin those important policy objectives.
2. Suggested changes to the wording of the NPPF are a helpful, especially around 122.c. of the draft revised NPPF, 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, proposals for which should be regarded as acceptable in principle, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land;*

3. The challenge is not in this wording, which is almost baking permission in principle on brownfield land into the NPPF, but as the question alludes to, what are reasonable exclusions? The local community may have legitimate concerns about issues such as density, design, impact on the historical environment, impact on existing uses, increased load on existing local infrastructure. There will also be the various requirements of statutory consultees.
4. There may be ways of simplifying some of these exclusions. For example, on design, via design codes.
5. A National Development Management Policy (NDMP) on brownfield land would also be helpful. Effectively strengthening the presumption in favour of brownfield development/delivery over other policies, but also seeking to add more detail on some of the issues that need to be considered.

## What caveats should accompany any general expectation that development on brownfield land within urban settlements is acceptable?

6. We have noted some of the possible caveats, for example impact on the historic environment, although new development can often be done in sympathy with historic buildings and breathe new life into areas that are in decline.
7. Conservation areas may warrant exclusion, although our experience is mostly that objections to such development are about design and form and 'what' is being developed, as the principle of development.

## How best can urban areas be identified and defined if this approach is pursued?

8. There are a variety of ways in which this can be done.
9. Policy already requires local planning authorities to keep a brownfield register and applies permission in principle at present on brownfield register land, mainly on smaller housing developments. Our experience of brownfield registers is, however, that they are neither comprehensive nor up to date.
10. The Government or Local Planning Authorities could zone areas, where the Brownfield Passports might apply. Zoning has been used in the past to identify places for Enterprise Zones or Freeports. The downside of such an approach is that it will ultimately limit Brownfield Passports to those areas that have been zoned, and therefore limit the policy impact.
11. A further approach would be to use definitions within local or regional plans. Growth areas defined in local plans, for example, but that approach would be very limiting indeed.
12. A presumptive approach could be taken, drawing on the definition of previously developed land in the NPPF. The presumption would be that a Brownfield Passport applied unless the land did not meet the definition:

*Previously developed land: 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. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.*

13. Such an approach would capture the greatest breadth of brownfield land, and is our preferred approach, although it may lead to some disputes over whether land qualifies under the definition.

## Could national policy play a role in setting expectations about the minimum scale of development which should be regarded as acceptable in accessible urban locations?

14. We think national policy could play such a role. As we have set out previously, scale, and other issues, could be addressed in a national development management policy.
15. Scale of development could be with reference to existing (or previous) structures, although on larger brownfield sites no such reference point might exist. An important consideration will be proximity to existing housing and its height and density.

16. References to minimum density are very helpful although paragraph 17 refers to 'acceptable density ranges' which may need to be clarified (it implies a maximum as well as minimum density).

## **What parameters could be set for both the scale of development and accessibility?**

17. As set out above, scale of development could be with reference to existing (or previous) structures and taking account of proximity to housing.
18. A greater height of development might be allowed where there is some distance from existing buildings
19. For example, a development that is less than 10 metres from an existing structure might only be allowed to the same height as the existing structure, but one that is 20 metres away may be allowed existing structure plus 3 metres, and 30 metres away plus 6 metres. A table could be drawn to reflect height and distance. A similar approach to this is taken in the existing Slough Simplified Planning Zone (SPZ).
20. Accessibility is important and an NDMP could reflect requirements on access to public transport, cycling and walking, parking, etc.
21. More challenging will be where the development incorporates housing, and where residents need access to other local services. The Federation could not support a policy that led to inappropriate development in poor locations.

## **Could more use be made of design guidance and codes to identify specific forms of development that are acceptable in particular types of urban area?**

22. Undoubtedly, design coding might help expediate development going through the Brownfield Passport process. A challenge will be ensuring that it does not become so voluminous that it is defeating the purpose of a simplified approach.

## **What sort of areas would be most suited to this approach, and at what geographic scale could such guidance and codes be used?**

23. There is a delicate balance to be struck between design guidance at a local planning authority level, which can be broad, and the greater certainty for all concerned that will come with something that is more specific. Ideally, there would be a design code/guidance for each significant brownfield area within an urban area. Experiences can be quite disparate though. In major city centres, especially in the North and Midlands, there are significant brownfield sites within a couple of kilometres of the centre, in Leeds for example. Whereas in somewhere like East Suffolk, brownfield land may be scattered around a variety of urban

centres over 100 square kilometres. It may be best to first focus on getting design codes in place in the city centres of major urban centres. As we allude to elsewhere, having a Local Development Order (and design code) in most large town and city centres would not be a bad start.

## How could Local Development Orders be best used with these proposals?

24. We would strongly encourage the greater use of Local Development Orders. They are a useful tool available to local authorities that can simplify the planning regime whilst better reflecting local circumstances that inevitably national policy cannot be as sensitive to. For example, permitted development rights are generally helpful, but they cannot always sensitively reflect local circumstances or vision.
25. The primary reason that we hear of that LDOs are not more extensively used is resource. To put an LDO in place, requires policy development, extensive consultation, and analysis which most local planning authorities can ill-afford. We were therefore supportive of the funding package of £5m in the 2023 Autumn Statement to incentivise the greater use of LDOs and wonder if that funding was allocated and what lessons were learnt from the allocations made?
26. LDOs could form a layer of the brownfield passport by setting out additional local flexibilities and simplifications that apply.
27. Given the extensive brownfield development opportunities presented by town centre change of use, the Government could incentivise and disincentivise the greater use of LDOs, either by insisting that all town centres above a certain size have an LDO, and/or providing additional funding to put town centre LDOs in place.

## Are there any other issues that we should consider if any of these approaches were to be taken forward, in particular to ensure they provide benefits as early as possible?

28. It is imperative to the Government's growth agenda that this policy agenda is pursued as swiftly as possible. Some of the suggested policy change highlighted above will take time to put in place, because of necessary policy consultation requirements and legislation.
29. As a sign of intent, we think it is important that a more formal consultation, together with suggestions on a Brownfield NDMP come forward as soon as possible.
30. Ensuring that the changes to the NPPF go live as soon as possible will also be an important milestone.
31. As we have also highlighted, there are several existing mechanisms for promoting brownfield development and they could be improved or supported more, for example:
  - i. Promoting the greater use of LDOs, with greater resourcing.

- ii. Promoting Simplified Planning Zones, and resource to put those in place. (Note: A BPF member, Segro, has an SPZ at Slough Trading Estate. It works well and is currently being renewed. There is probably best practice and lessons to be learnt from it, from they would willingly share.)
  - iii. Ensuring brownfield registers are up to date.
  - iv. Loosening restrictions on Permission in Principle.
32. The Government has already taken some welcome steps to improve planning resourcing, and we appreciate those.
33. Finally, whilst the focus of this discussion paper is planning barriers, the financial viability of brownfield development is often very challenging. Public funding is sometimes required for land remediation, environmental improvement, and infrastructure to make development on brownfield land viable. The Government recently announced an additional £68million via the Brownfield Land Release Fund, and additional funding that can be found of that nature will certainly help. Similarly, not overburdening brownfield development with additional taxes or other regulatory requirements, for example, the Building Safety Levy.

### **In addition to streamlining permissions on urban brownfield sites, where else do you consider this type of policy could be explored to support economic growth?**

34. There are possible ways this policy approach could be extended.
35. One possibility would be to align a simplified planning approach with the property requirements of all or some of the sectors identified in the Industrial Strategy currently being consulted upon. Life sciences or the creative industries for example, may benefit from an approach that gave greater planning weight to their growth.
36. More radically, the necessity to deliver 1.5 million homes over the course of the next 5 years, and associated growth that comes with it, might warrant a simplified approach. For example, in areas that are failing to deliver their housing numbers.
37. Finally, whilst expediting the principle of permission is helpful, we often hear from our members that the negotiation of a s106 agreement can be another time-consuming aspect of gaining planning permission overall. There may be opportunities to standardise some of the documentation and approaches to s106 agreements.
38. Finally, this discussion paper highlights broader issues about control vs liberty/trust. The planning system covers an increasingly long list of subjects; requires more intensive scrutiny of more extensive evidence; and it is increasingly requiring more details to be approved. The outcome may be better quality development (though not necessarily), however it comes at a cost to speed, and acts as a barrier to entry. Some withdrawal of direct controls seems essential to improve speed – this shouldn't have to mean a reduction of quality but will involve a change in behaviour and perspective.