



BROWNFIELD PASSPORT CONSULTATION

Response by Smart Growth UK

November 2024

Response by the Smart Growth UK coalition to the *Brownfield Passport: Making the Most of Urban Land* [consultation paper](#).

Summary

These proposals are intended to secure increased brownfield development, but we are not persuaded they would achieve this, even of brownfield homes. What is needed to increase brownfield development is a return to the brownfield-first policies abandoned in 2012; retaining the current system is essentially a greenfield-first policy. So tinkering with brownfield planning and introducing a policy like passports would simply introduce a distorting extra level of bureaucracy.

A default yes would undermine vital environmental protections including, notably, the investigation and remediation of contaminated land. Given that it would also undermine the deregulatory decision not to Implement all of Part IIA, it could mean that such passports would entail a very significant increase in regulatory activity nationally, far beyond urban areas, and impose high costs on developers. Other areas likely to be negatively impacted include flood control and drainage, sea defence, nutrient neutrality, access to sustainable transport, heritage, biodiversity etc..

We believe the suggested range of objectives of brownfield policy should be expanded to include economic regeneration, the use likely to be made of existing infrastructure, provision of new infrastructure, remediating and eliminating land contamination and instability, restoring continuity and vitality to communities and improving revenue streams for public transport, utilities, local businesses etc..

Brownfield policies should not apply solely to housing, but to most types of development and should stress brownfield land's potential to reduce pressure on greenfield sites and secure more sustainable transport.

We do not accept that existing planning policy is supportive of brownfield – just the opposite. The 2012 reforms created what is essentially a greenfield-first policy and tinkering since then has not altered that.

We would urge further consideration of these proposals and against rapid implementation. “In principle” acceptance of brownfield development opens up a long

list of potential pitfalls and risks both for developers and long-term occupants of sites, together with the environment and local communities.

We support sustainable levels of densification of suburban areas but it is a process which needs great care. Local plans, as well as design codes, supported by national and regional guidance, should be central to the process.

Local development orders have had limited take-up and have limited applicability.

We would strongly oppose any gradualist move towards zonal planning systems.

The default answer to any development proposal should be detailed examination of its individual merits and aspects, set against statutory guidance and local planning policies. So many caveats would be needed for any general form of permission, it would be more onerous than the current system.

The changes proposed in the paper are probably even less suited to brownfield sites than greenfield.

Introduction

Paragraph 1: We agree that towns and cities should be the focus of development as it can be located there more sustainably and with less damage to the ecosystem services land provides than on greenfield sites.

Paragraph 2: It is disappointing to see homes as essentially the main, or even sole, focus of interest. Of course, urban centres need to grow so that homes are close to jobs and building is concentrated in places with good connectivity by public transport, rail-based where possible. But sustained, and sustainable, economic health will only be achieved if towns and cities are seen as the focus of growth for employment – which includes retail, services, manufacturing and the other services that create healthy communities. Any brownfield proposals must consider them.

Paragraph 3: The reference to “mandatory housing targets” is unclear. Housing targets, as currently deployed, are simply abstract demands on local plans, with penalties for non-compliance. They don’t lead to the construction of a single house and, unless and until the Government either creates measures to make commercial builders build, or to fund social-rent housing, they will remain purely aspirational, albeit destructive. We have already set out our objections to green belt and new town proposals in response to the NPPF consultation.

Paragraph 4: While we welcome the repeated verbal commitments to making brownfield sites the first port of call for residential development, we do not believe these will be effective in securing a significant increase in brownfield residential construction and they ignore other types of development. We welcome too the promise of a renewed interest in small sites which have been ignored for far too long.

However, we do not believe the proposals suggested so far would make much difference. The 2012 NPPF and its provisions on deliverability and viability etc. essentially made it

much easier to build homes (and other development) on greenfield sites, as was its implicit purpose, and rapidly undermined brownfield development. It is, in essence, a greenfield-first policy given the expense and other obstacles often encountered on brownfield sites. The proposals for green belts, new towns and changes to the standard method would simply exacerbate that.

Paragraph 5: We do not believe that making brownfield development “acceptable in principle” would add anything useful, given the greenfield-first ethos of current policy referred to above. It would simply undermine good site allocation and development control.

Paragraph 6: A “default answer” of yes would simply undermine important environmental protections, notably regulation of contaminated land and flood control.

One very obvious objection to use of default yes involves land contamination. Somewhere along the line, the issue of Part IIA of the Environmental Protection Act 1990 seems to have been forgotten. We need to remember that many of its provisions were never implemented because the view was taken by the Government that it would be less onerous from a regulatory point of view if the majority of contaminated sites were dealt with via the planning process when there are applications for redevelopment. Even here, it is a complex process, involving the local planning authority imposing conditions requiring two stages of site investigation, often including an onerous and costly one involving intrusive site surveys and then, if contamination is found to be present, remediation - which can both be expensive and may take years.

As a result, only a small minority of the many thousands of contaminated sites in the UK are dealt with via Part IIA in procedures which may very well result, on account of the severity and danger posed to human health or the water environment by the contamination, in the effective sterilisation of the site.

If the Government is serious about replacing detailed individual planning applications with “brownfield passports”, or even LDOs, it would effectively necessitate reviving the suspended provisions of Part IIA, including universal investigation of all contaminated sites and preparation and maintenance of detailed registers of contaminated land.

We would suggest this could be very much more onerous and costly than the current system.

Other issues are likely to need detailed site-by-site consideration including flood control and drainage (especially given current changes thanks to climate-change), sea defence (where relevant), nutrient neutrality, access to sustainable transport, heritage, biodiversity etc..

Objectives

Paragraph 7: While we support the objective of 7b, terms like “under-used” in 7a risk undermining the need to avoid wasteful demolition and redevelopment. Clear policies

(7c) are always essential and, while we support the objectives in 7d, there need to be wider objectives, including:-

- Economic regeneration of whole communities
- Enabling better use to be made of existing infrastructure
- Facilitating provision of new infrastructure which can help address existing infrastructural shortages
- Remediating and eliminating land contamination and instability (which can both affect much wider areas)
- Restoring continuity and vitality to communities
- Improving revenue streams for public transport, utilities, local businesses etc..

Paragraph 8: There is a mismatch here in that this paragraph refers to “homes and other development” while earlier paragraphs simply referred to housing. Certainly, brownfield policies should apply to other development.

It’s surprising that no mention is made in this paragraph of reducing pressure on greenfield sites which deliver a range of ecosystem services. There are also good reasons for transforming derelict land which go beyond “greater productivity”. There is ample evidence that derelict land has a range of detrimental effects: anti-social behaviour, damage to local residents’ physical health, growth of invasive species and a deterrent to commercial investment.

Proposals

Paragraph 9: We would strongly challenge the assertion that existing planning policy is “supportive of brownfield development”. As stated above, present policy is essentially greenfield-first (and that includes viability which most certainly *is* part of the planning system). It’s entirely unclear how any of this reduces risk for developers as a weakened local plan system will reduce the certainty that local planning authorities have properly assessed the risk of developing sites.

Paragraph 10: We agree it would be a mistake to grant automatic planning consent or remove local oversight of development control on brownfield sites and we share a desire to lower cost, risk and uncertainty around brownfield permissions.

It is, however, worth considering the issue of relative risk and cost between greenfield and brownfield sites. Planning reforms of recent years have exacerbated those difficulties.

Paragraph 11: We are not so far persuaded that brownfield passports would add anything useful to planning on brownfield sites. They would either add an onerous new requirement for allocating brownfield sites in local plans or would weaken vital regulatory protections in areas such as contaminated land or flooding. (c.f. response to Paragraph 6).

Paragraph 12: We welcome the commitment to avoid hasty enactment of these proposals. However, there would need to be substantial changes in the NPPF beyond

those currently proposed, if significant new interest in brownfield sites is to be generated.

Paragraph 13: We do not believe the change to accepting development in principle would have much, or any, benefit as the principal obstacle to brownfield development is the easy availability of allocations and consents on greenfield land.

Paragraph 14: Without specific exclusions the “in principle” idea would be pointless except as a way of potentially undermining necessary restrictions. However, the exclusions list would be likely to be a long one. As well as flood risk and access, there are multiple challenges to be considered, land stability and contamination, problematic existing structures above and below the surface, invasive non-native weeds, access to public transport, access by active travel, sensitive receptors on nearby sites, location in relation to services, statutory undertakers’ services on sites and many others.

What, in reality, would such a “passport” add?

Paragraph 15: Given the list of potential barriers to passport holders, it looks simply like a further piece of bureaucracy that would militate against brownfield redevelopment or reuse.

Paragraph 16: We agree in principle that densification would be beneficial in much of the vast area of ultra-low-density, land-squandering “garden suburbs” which have been built since 1918. We are well aware that appropriate densification of such areas can be beneficial in making better use of our scarce building land, concentrating development sustainably in existing urban areas, location in relation to public transport, viability of local services (including retail, education, healthcare, libraries, social facilities etc.). Such projects, however, should apply to existing ultra-low-density areas (below 30 dwellings per hectare net) as benefits are likely to diminish if medium-density areas are degraded or destroyed by high-rise development.

Such proposals also pose obstacles to protection of character, heritage, vegetation and open space. The other issue is local acceptability, which is likely to be hard to secure. As ever, the key issue is not existing areas, it’s ensuring appropriate sustainable densities are secured in major new development, be it brownfield or greenfield.

Paragraph 17: There has been a slow process of densification of suburbs in some areas in terms of demolition of existing large homes and their replacement with small mansion blocks. Yet this mostly affects pre-1914 suburbs where densities tend to be higher than post-1918 and where heritage/townscape value is lost. This is an issue guidance needs to address.

All local plans should specify a range of acceptable residential densities and building heights throughout their areas. There should be national guidance and limits on this but, within those limits, local planning authorities should have freedom to decide. This, coupled with strict requirements on sustainable transport accessibility, should allow some densification of existing areas and – more importantly – the securing of appropriate sustainable densities in major new developments. We do not support the ultra-low densities of garden suburbs (except in very few sensitive environments) or the

ultra-high-densities of some recent city centre developments. Both are inimical to healthy communities.

Paragraph 18: National planning policy needs to set things like minimum and maximum densities, building heights etc and leaving local authorities to decide what is best in their areas. While design codes need some national support and guidance, they too are best left to councils who know their areas, subject to regional or national intervention only when there is clear abuse of the process.

Paragraph 19: You identify the contrasting typologies of Edwardian terraces and inter-war semi-detached housing, without perhaps realising how fundamental the contrast is. The garden city pioneers just before the Great-War attacked the bye-law standards which had produced the terraces (since the 1870s) built at sustainable medium densities (and which replicated the type of land-efficient densities at which homes had been built for centuries). This was a specific attack, enshrined by the 1919 Parliamentary Tudor-Walters Committee which led to the abandonment of the sustainable bye-law densities and the free-for-all development of low-density suburbs which has been the default ever since; builders tend to find it most commercially attractive on most sites.

Paragraph 20: We agree there is potential to use codes – and local plans – to identify opportunities (and pitfalls) of densification in ways that protect local character and identity, heritage and a range of other sustainability and community concerns.

We agree too there needs to be an assessment of the infrastructure and other demands caused by developments and powers are needed within the local planning and development control systems to refuse or condition consents and to demand appropriate contributions or work from the applicants.

But densification needs much more than a focus on corner plots whose potential is low. Densification, as with any other significant residential or employment development should be dependent on adequate public transport networks being available in the vicinity.

Paragraph 21: Support, including guidance, for any such planning policies should be available at national, regional and local level.

Paragraph 22: LDOs have attracted limited take-up and, given the nature of brownfield planning, are probably least suited to urban areas.

Paragraph 23: We do not support any gradualist move towards simplistic zonal planning systems anywhere, least of all in the complex and demanding environments of cities.

Paragraph 24: We agree that use of LDOs should be purely a matter for local decision.

Conclusions and further work

Paragraph 25: We do not believe a default answer in planning should ever be “yes”, however desirable development or redevelopment of a site is. Planning controls exist for important reasons and, unless these are to be ignored (with harmful consequences), a default yes would simply be an abstract luxury. “Brownfield passports” would simply mean an extra layer of bureaucracy and would introduce further risks for developers and duties for local planning authorities.

Paragraph 26: In answer to the questions:-

- a. National policy should return to the brownfield-first policies abandoned in 2012 which would increase certainty for brownfield developers.
- b. The number of caveats which would need to accompany any general form of permission would be so lengthy, it would inevitably involve more issues than the current assessment of sites individually.
- c. Urban areas are generally well defined in local plans already.
- d. National policy is certainly needed to specify things like acceptable ranges of residential development densities, building heights, open space needs etc..
- e. Generally, residential development net densities should lie in the 40-100 dwellings per hectare range. Residential buildings should be limited to four storeys or five in city centre areas. Significant residential and employment developments should normally be restricted to within 800m of stops on rail-based public transport networks. They should enjoy easy pedestrian access to shops and community facilities.
- f. Possibly.
- g. The sort of changes proposed in this paper are aimed at brownfield sites which are usually the most complex and demanding places to redevelop. They should never be used to replace detailed assessment of individual sites, least of all on brownfield.
- h. LDOs should have very limited use.
- i. These proposals would introduce onerous requirements for local planning authorities, increase risk for developers and threats to the environment, local economies and to communities.
- j. There are no other areas where proposals of such limited utility should be explored.