



Smart Growth UK Response to DEFRA Consultation on Biodiversity Net Gain - Considering a Targeted Exemption for Residential Brownfield Development

9 June 2026

Section 1: Definition of brownfield residential development

6 Do you support the proposed regulatory definition of residential brownfield development?

No

The definitions of both "brownfield" and "previously developed land" (PDL) have been a mess ever since they were conflated by the 2012 *National Planning Policy Framework (NPPF)*.

Previously, brownfield land was essentially PDL that had not reverted, or been restored, to a green end use. It worked very well, along with "greenfield land" and local planning authorities (LPAs) were well used to defining sites by their percentages of brownfield and greenfield (both of which might have included PDL).

The conflation of the two was, like most of the 2012 NPPF, intended to confuse the distinction and make development of greenfield land easier.

We are unclear why a definition of residential brownfield development is needed. It should be obvious whether an application involves residential development and so should be subject to local plan requirements for both residential and greenfield/brownfield land. Even if it is intended to apply new conditions to such development nationally, as soon as it becomes a housing development on brownfield land, then those requirements should be applied by the LPA.

7 Do you agree that the proportion of the land within the planning application boundary should be $\geq 75\%$ Previously Developed Land (PDL) to qualify?

No

No such threshold would be needed if LPAs are allowed to treat the site as X% brownfield and Y% greenfield and apply a mix of their policies. To the objection that this would be complex, it is what councils have been doing successfully for at least 30 years.

75% is a wholly arbitrary threshold. It would, for example, usually mean that former airfields, which usually include very high proportions of grassland, would be entirely

excluded from being rated brownfield. Far better would be to consider the developed and undeveloped parts of the site separately.

8 To what extent do you agree that the proposed regulatory definition aligns with current interpretations of 'Previously Developed Land' under the *NPPF* glossary for planning decisions?

Neither agree nor disagree

The current *NPPF* definition is a confusing mess:-

(1) There is no reason why only "lawfully developed" sites should be defined as PDL. What about major fly-tipping sites where the the land has been substantially damaged?

(2) "Curtilage" is a complex, legal term and little understood.

(3) Why only surface structures? Even if deep mines are ignored, many brownfield sites have voids, tanks, cellars etc. close to the surface and which seriously degrade sites which may appear to have been restored to green end uses.. What about restored landfills? Often these appear as green fields, but they are usually unsuitable for development. There will be issues of subsidence, landfill gas etc.. Sometimes it's proposed to deal with such issues by piling through the waste to what's underneath. But this inevitably involves puncturing the site liner and usually provides a pathway for landfill gas to affect any development.

(4) Why should hard-standing only be included if it has been "lawfully developed"? Plenty of hard-standings have been laid down illegally.

(5) It has never been clear why agricultural or forestry buildings should be excluded, other than they are likely to be in rural areas. This should dictate a higher level of protection for the site.

(6) It's unclear why old landfills or mineral extraction sites should be excluded simply because provision for restoration has been made. Examples where such provision has proved inadequate or completely unavailable are numerous and, in any case, where it is available it's intended for restoration to green end uses like agriculture, nature or open space. Such sites will very likely be unsuitable for housing.

(7) A blanket exclusion for land in built-up areas is absurd. The caveats ("such as residential gardens, parks, recreation grounds and allotments") do not constitute a rule, but are merely examples. Taken at face value this means that no urban site is PDL or brownfield.

(8) Another major area is land contamination which may well make a site, even one that has apparently been impeccably restored to green end use, thoroughly unsuitable for development. Has even any thought been given to the relationship between these proposals and the Part 2A regime?

The proposed new, extra definition for the BNG exemption would be unnecessary if the *NPPF* definition were sorted out. But the proposed definition also has problems:-

(9) Why should land where buildings or structures built before 1948 not be covered? A great deal of brownfield land includes such development – which was usually lawfully developed in the era before planning consent was required. And frankly, even if it wasn't, it's so long ago as not to matter.

(10) Why should "structure" be restricted to surface infrastructure? Cellars, voids, near-surface-mineral workings, underground services and landfills should all be considered.

(11) Again, it's unclear why farming, forestry, mineral or landfill sites should be excluded.

9 Overall, do you consider the proposed definition and evidential requirements to be proportionate and workable for applicants and local planning authorities?

Disagree

The proposed definition simply increases the level of bureaucracy required in consideration of planning applications. There really would be no need if the bugs in the *NPPF* definition were ironed out and local planning officers left to do their jobs.

Finally, there's no obvious reason why the exemption should apply only to residential, or primarily residential, developments. Biodiversity is biodiversity, so why should house builders alone be so pampered?

Local planning authority

It adds extra unnecessary bureaucracy to local planning authorities' work.

Section 2: Considering a targeted BNG exemption

10 What impact do you think the introduction of a mandatory BNG requirement has had on brownfield residential schemes of less than 2.5 hectares?

I'm not sure

11 Do you support a targeted area-based exemption for residential brownfield development?

No

The proposed exemption and definition of "brownfield development" mask underlying weaknesses in the whole approach to brownfield redevelopment.

One very basic weakness is that the approach only prioritises "biodiversity" - while ignoring the wide range of other ecosystem services that greenfield land provides, and confusing the assessment of nature on sites with biodiversity.

Biodiversity refers to the complex, multi-species flora and fauna that exists both on and beneath sites. Significant levels of biodiversity are very rare in PDL as it will have been

mostly destroyed by development and soil sealing and, even when restored to green end uses, takes many years to repair.

Very few brownfield sites exhibit significant biodiversity, so the designation of "open mosaic habitat" as a priority habitat is hard to understand. Most brownfield sites are a mosaic of derelict structures, hard standings, roadways and redundant services. Where soil isn't sealed, it may well be contaminated and is likely to be deficient in nutrients, compacted and supporting a range of invasive weeds, especially invasive non-natives like Japanese knotweed or buddleia. This is the reality of most brownfield sites.

Greenfield agricultural sites too are often criticised for lack of biodiversity, but they will support extensive soil flora and fauna, unlike most brownfield sites whose soil will mostly take generations to repair even when restored. They often play major roles in rain infiltration, drainage and flood control and support genuine biodiversity, at least around the margins.

Occasionally rare native species do become established (often temporarily) on brownfield sites but will be competing with non-native invaders. It may be diverse and even bioabundant, but valuable ecology is rare.

For this reason, we think your approach, involving tinkering with brownfield residential thresholds, is mistaken. If the Government is serious about protecting and enhancing biodiversity and prioritising brownfield development (worthwhile objectives), instead of narrow assessments of sites by size or the presence of nature, they should consider:-

(a) the ecosystem services the site offers:

- Nature
- Contribution to food security
- Contribution to water security
- Drainage and flood control potential
- Landscape value

(b) its proximity to sustainable transit modes.

Even where brownfield sites in built-up areas have nature potential, their biodiversity will always be severely curtailed by the surrounding development causing air, noise and light pollution and disturbance. Of course, new developments should have quality open space and trees, but isolated within towns this is creating little "on-site biodiversity".

We therefore recommend assessment of brownfield sites for residential use should be based on a wide range of factors. Greenfield sites should also be subject to many of the same tests.

12 If you support a targeted area-based exemption for residential brownfield development, which exemption threshold for a residential brownfield development do you support?

Do not support

13 Do you think there is a case for an area-based exemption for residential brownfield development that is greater than 2.5 hectares?

I'm not sure

Only if accompanied by a robust examination of:

(a) the site's contribution (or lack of it) to ecosystem services

(b) its proximity to sustainable transit modes.

14 Do you foresee any unintended consequences arising from a targeted exemption for brownfield residential development?

I don't know

15 How easy or difficult do you think it would be for applicants and LPAs to apply this exemption in practice?

Difficult

It would involve consideration of which parts of a complex site are brownfield and greenfield and the potential of brownfield to become restored PDL.

16 Do you think any additional measures are needed to ensure that the exemption is appropriately targeted in relation to potential ecological impacts?

I don't know

Section 3: The potential impact of a targeted BNG exemption for residential brownfield development

17 If you have any further evidence about the administrative, viability, biodiversity or nature market impacts for this exemption that you have not provided in previous responses, please provide it in the box below. Any evidence submitted will be reviewed by the department but will not be analysed, summarised, or included in the published government response.

No file uploaded

Section 4: Next steps

18 Overall, how satisfied are you with our online consultation tool?

Neither satisfied nor dissatisfied

You could allow a wider range of possibilities than the very narrow set offered.