

BROWNFIELD PASSPORT: MAKING THE MOST OF URBAN LAND

RESPONSE TO WORKING PAPER

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INTRODUCTION

1. BusinessLDN is a business membership organisation with the mission to make London the best city in the world to do business, working with and for the whole UK. BusinessLDN works with the support of the capital's major businesses in key sectors such as housing, commercial property, finance, transport, infrastructure, professional services, ICT, and education. We welcome the opportunity to comment on the Ministry of Housing, Communities & Local Government's proposal for the introduction of 'Brownfield Passports' through National Development Management Policies (NDMPs).

COMMENTS ON THE QUESTIONS POSED

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

2. Since the publication of this working paper, national policy has already been revised to provide a presumption in favour of development on brownfield land. The insertion into paragraph 125(c) of the revised National Planning Policy Framework (NPPF) published February 2025 makes it explicit that, "*proposals for [brownfield land] should be approved unless substantial harm would be caused*".
3. The term 'substantial harm' is a longstanding and familiar test in the planning decision making process. There is extensive case law regarding its interpretation, which should be commensurate to the scale and character of the development being proposed. The new paragraph 125(c) in the NPPF is therefore clear does not require the listing out of specific exclusions at a national level.
4. The proposals outlined in this working paper to introduce the concept of 'brownfield passports' in national policy would go further and could take the form of a National Development Management Policy (NDMP). Reducing planning risk on brownfield sites would provide greater certainty to developers and streamline the decision-making process. The move towards a more rules-based approach with brownfield passports should provide clearer outcomes for projects and clearer housing land supply calculations for Local Planning Authorities (LPAs).

5. If the government is to deliver its ambitious target of building 1.5 million homes this Parliament, bold steps will be required to create an efficient planning system to facilitate the scale of development required. One step could be to introduce Brownfield passports through a flexible zoning system like those used in other countries, such as the Netherlands.. This approach should be targeted at smaller sites rather than large, complicated brownfield regeneration sites, which often demand a careful balance of complex planning issues rather than a 'tick box' assessment. Zoning could be a useful tool to support the densification of low density, suburban areas for instance.
6. If a NDMP on brownfield passports is introduced, it should encourage all forms of development on brownfield land, not just housing. While much of the attention on brownfield land centres on its potential for residential development, it is essential that planning reform supports a diverse range of land uses that will boost economic growth as well as meet housing need. Ensuring flexibility in brownfield land use will also support commercial, industrial, and mixed-use projects, fostering balanced growth and meeting the varied needs of our urban areas, including London.

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

7. As stated above, the revised NPPF (February 2025) refers to the planning test of 'substantial harm' and this is considered the right approach. Any specific caveats referenced within an NDMP should be restricted to those issues which are a public health and safety issue (e.g. the exclusion of sites within a flood risk zone) or an issue subject to statutory protection (e.g. a designated heritage asset).
8. Beyond this, safeguards already exist outside the planning system within Building Regulations to ensure that any new development must adhere to strict rules on accessibility, fire safety, sustainability and other design standards. The Building Control regime will help ensure that brownfield development supports resilient, sustainable urban growth without compromising other long-term objectives.
9. Finally, LPAs should retain the ability to set any caveats in their local plans that they consider would be an important material consideration. However, if LPAs pursue this, the brownfield passport NDMP should make it clear that there must be no repetition of national policy or Building Regulations, and any local caveats must be justified by evidence.

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

10. All local plans and strategic plans generally define a settlement hierarchy with defined settlement boundaries. If a brownfield passport NDMP is brought forward, this should be mandated in the NPPF including a requirement for local plans, and strategic plans where they exist, to define which settlements are categorised as 'urban areas' for the purposes of brownfield passports.
11. In London, the town centre network – and the status of each centre – is already identified in the London Plan. There is scope to develop this further by leveraging existing frameworks like Opportunity Areas and further developing the strategy for small sites and suburban densification. These concepts and designations should be expanded to

incorporate brownfield passports where possible, thus streamlining permissions while aligning with city-wide good growth objectives. The London Plan already emphasises the importance of prioritising brownfield land for development, and brownfield passports could serve as a valuable tool to advance this ambition.

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?

12. Setting minimum expectations for development scale and accessibility in key locations would give developers clearer guidance and ensure brownfield sites are used to their full potential. However, experience in London suggests such parameters not be set at a national or strategic level. Early versions of the London Plan included a density matrix which suggested residential density parameters for central, urban and suburban locations with different Public Transport Accessibility Level (PTAL) ratings.
13. In applying the density matrix to live applications, sometimes it was used in an overly prescriptive manner meaning sites were not fully optimised; on other occasions where good urban design had reasonably justified exceeding the relevant density range, the matrix was used by local objectors to try and block development. Accordingly, during the last London Plan review, there was consensus between the GLA and various stakeholders, including BusinessLDN, that the density matrix was no longer serving a useful purpose, and it was removed from the Plan.
14. Prescriptive density ranges can create barriers, as evidenced by the challenges in the London Plan's density matrix. Instead, national policy should explicitly mandate the optimisation of brownfield development, strongly encourage densification, and, as outlined in the working paper, emphasise that "existing character should not be used to block sensible changes that maximise an area's potential." This approach would enable LPAs to set clear expectations and implement national pro-density policies effectively. As a result, site outcomes should stem from LPAs applying clear, pro-density national policies to the unique circumstances and characteristics of each site, rather than forcing schemes to conform to rigid density ranges.

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

15. The parameters should not be prescribed in national policy. Flexibility is key so that LPAs can set different parameters in different circumstances.
16. Specifically, for housing, residential density can be an effective tool, ideally on a habitable room basis rather than unit basis. This allows for greater design creativity and ensures that the use of land can be optimised by a design led approach. However, this is only relevant in a wholly residential scheme. For mixed-use and commercial schemes, the only suitable tool available is building heights, but this type of parameter can become incredibly prescriptive and is complicated by the fact that different land uses require varying floor to ceiling heights. It is due to these complications that we consider there should be flexibility for LPAs to choose which parameters to set locally according to the type of site and land use expectations.

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?

17. Design codes can play an important role in establishing clear parameters and a cohesive vision for acceptable development on brownfield land. They are valuable tools to ensure that proposals align with local plan objectives and contribute to high-quality, sustainable urban environments. However, design codes must retain an element of flexibility, rather than be overly prescriptive, allowing for innovation and adaptability while upholding the principles of good planning.
18. Design codes can be used by LPAs to send a clear message about their ambitions for the optimisation of development on brownfield land, reinforcing that existing character should not be used to restrict a site's potential. Taking the example of suburban densification again, in the current planning system there can be strong opposition from the existing local community to such proposals on a case-by-case basis; whereas a brownfield passport design code would create a clear expectation that policy compliant schemes would be approved (potentially under delegated powers if the proposed national scheme of delegation is brought forward). This would reduce development risk for smaller developers, whose presence in the market has been declining in recent years.
19. Furthermore, while much of the focus on brownfield development in urban areas centres on meeting housing targets, it is essential that design guidance accounts for the vital role of commercial development in shaping a city's built environment and growing the economy.

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

20. This approach would be particularly suited to high-density urban areas, suburban hubs, town centres, and clusters of brownfield sites where redevelopment can yield significant housing and economic benefits. These areas often have existing infrastructure and accessibility that make them ideal for intensification.
21. As already discussed, the use of brownfield passports and design codes may vary according to the type of site and location and such decisions should be locally driven. For single, large regeneration sites, a site-specific design code may be necessary. These could be linked to site allocations in the relevant local plan or sites identified in the local brownfield register.
22. In wider areas identified for regeneration, the design code could take the form of an Area Action Plan or, in London, an Opportunity Area Planning Framework. As highlighted above, brownfield passports could be a useful tool for densifying suburban areas and in these cases the LPA could develop an authority-wide design code or one that applies to a large suburban area. In any of these situations, a design code could be used to set an ambitious vision and parameters for the optimum use of brownfield land.

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

23. Local Development Orders (LDOs) could complement brownfield passports by granting pre-approval for developments within designated zones, provided they meet established criteria. Whilst LDOs have not had been as widely used as hoped for, they could be a useful tool to bring forward brownfield development.

24. This approach would offer developers greater certainty and streamline the planning process, reducing delays and incentivising investment in brownfield land. By defining clear parameters, LDOs can further accelerate urban regeneration while ensuring local planning objectives are met.
25. The use of Permissions in Principle (PiP) could be explored to allow developers to confirm the basic principle of a development without committing to all design details upfront. This offers greater flexibility for developers while maintaining the certainty that LDOs provide. PiPs are particularly useful when the site or design is not yet fixed, whereas LDOs are better suited for large-scale, uniform developments.

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?

26. If brownfield development is to progress at pace, the government should reform tax policy to allow full expensing of build costs for brownfield housing. This would ensure these costs are treated as capital expenditure for tax purposes, encouraging investment in new homes and driving economic growth without reliance on government grants.
27. LPAs in London must also be sufficiently resourced to prepare the design codes needed to support this approach and handle the increased demand for expedited permissions. This could involve allowing boroughs to charge cost-reflective fees and investing in digitised planning technologies to help create a more efficient planning system. By addressing these challenges, London can maximise the potential of its urban brownfield sites to deliver residential and commercial development and contribute to sustainable economic growth.