Brownfield Campaign Discussion Paper 1: A Brownfield First Policy for the NPPF

Introduction

1. The purpose of this paper is to consider the potential need for a revised approach to CPRE’s headline policy on seeking a ‘brownfield first’ policy in the National Planning Policy Framework (NPPF). The paper will set out our existing policy, outline the current policy and political context, and propose options for alternative focuses for our campaigning on brownfield.

2. The key issue is that CPRE’s campaigning position, since the publication in 2010 of the National Planning Policy Framework (NPPF) has been to call for the reinstatement of a national ‘brownfield first’ policy alongside a national target for the proportion of development that should take place on brownfield land. While it remains the case that making the best possible use of brownfield opportunities is a cornerstone of protecting the countryside and greenfield sites from unnecessary development, there are questions as to both the merit and achievability of these objectives.

3. In short:
   - Is ‘brownfield first’ the right (or the best) headline message?
   - Is asking for a ‘brownfield first’ policy, a sequential approach to site selection, and a brownfield development target in the NPPF the most effective campaigning tactic?
   - What are the alternatives?

CPRE brownfield policy

4. Our headline policy on brownfield is contained in ‘CPRE’s policy on brownfield land’, published in July 2008, with the key message being the call for “a ‘brownfield first, green field last’ strategy as a general principle”. Despite its age, the contextual content of this policy statement is still relevant, as are several of the policy recommendations, which will be looked at in detail below.

5. The ‘brownfield first, greenfield last’ approach is carried through into other CPRE policies, including our policy guidance note (PGN) on Housing, and was reflected in our manifesto for the 2015 general election in our call for the new Government to “Make sure brownfield sites are prioritised for housing over greenfield sites”.

6. This policy position supports, but does not necessarily require, the campaigning position that we have been working towards as the next ‘flagship’ campaign for 2016: “for the government to adopt a ‘Brownfield First’ policy by the end of 2016 facilitating an increase in the use of sustainable brownfield land for housing development.”

7. Our frequent calls for a ‘brownfield first’ policy in recent years have not been without difficulty in terms of messaging. For campaigning purposes, a simple, clear, memorable message can be more effective, and ‘brownfield first’ appears to meet this description, but it implies a black-and-white ‘brownfield good – greenfield bad’ approach, which is not reflected in the detailed nuances of our actual policy. In particular, our partners in wildlife and heritage NGOs have often been critical of the simplicity of the message, because it implies that we would prefer to see sites supporting habitats, protected species and historic buildings built over, rather than, for example, more sustainable urban extensions. We have however been able to reach agreement with wildlife NGOs, through Wildlife and Countryside Link, on a policy approach that is consistent with CPRE’s own policy position: one that calls for prioritising brownfield development provided that it is not on sites of high environmental value such as ‘open mosaic’ habitat. There is also the question of how we deal with brownfield sites in the Green Belt or in remote parts of the countryside.

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1 CPRE’s policy on brownfield land: http://www.cpre.org.uk/resources/policy-guidance-notes/item/2466-cpres-policy-on-brownfield-land
8. Our current brownfield policy was developed in the context of the gradual erosion of the robustness of the brownfield element of national planning policy over time. PPG3: Housing (2000) had included a requirement for a national brownfield target of 60%, alongside a requirement that councils followed a ‘sequential approach’ to identifying housing development sites, that put urban brownfield sites at the top of the priority list. Subsequent reviews (in 2006 and 2011) watered this down, with less prescription about the sequential approach, but retaining an expectation that brownfield sites should be prioritised, within a context that focused more on the immediate deliverability of sites. Finally, the NPPF in 2010 removed the national brownfield target, and paid lip-service to the prioritisation of brownfield sites while the ‘presumption in favour of sustainable development’ in effect removed any vestiges of the powers that councils previously had to encourage brownfield use by constraining greenfield development.

“What CPRE wants”

9. This section looks in detail at the ‘asks’ included in our current brownfield policy statement.

10. “A ‘brownfield first, greenfield last’ approach - to protect the countryside and regenerate urban areas.” This is a central plank of our campaigning, but the simplicity of the headline message belies the practical realities of our detailed policy. Would this be the best served by a return to a PPG3 (2000)-style ‘brownfield first’ policy at the national level? (See below.)

11. “Removal of obstacles to brownfield development - financial support for remediating contaminated land.” We should continue to push for ways of achieving this. It should be recognised that Government has committed significant resources to getting development on brownfield sites started. We are also looking into the extent to which Government is financially supporting greenfield development, e.g. through the Homes and Communities Agency. Our second Housing Foresight Paper (“Removing Obstacles to Brownfield Development”) is a key part of this element of the campaign.

12. “Recognition in policy of the important role played by (brownfield) windfall sites.” Again, we should continue to push for this, and there are signs that this is beginning to be recognised. Currently, NPPF policy sets a high bar for councils to demonstrate that the potential for windfall sites to contribute to 5-year housing supply figures could be significant enough to reduce the need to identify specific sites in their local plans.

13. “A plan-led approach which responds to the needs and aspirations of local communities.” Government would argue that this is exactly what the NPPF achieves, especially with the addition of neighbourhood planning. In this version of events, any local plan that fails to identify brownfield sites for development and instead proposes significant greenfield development is doing so out of local choice, rather than as a result of the ‘presumption in favour of sustainable development’ demanding this outcome when developers argue that brownfield sites are ‘unviable’. We need to do more work on challenging viability assumptions, and questioning whether viability should be such a strong determining factor. On the other hand, we also need to consider whether a community that does choose massive greenfield expansion over regeneration of underused brownfield land of its own volition is necessarily making the right choice. But this is a general issue of the operation of localism, and does not relate only to brownfield development.

14. “Better use of existing buildings - reduction of VAT on building repairs, which deters responsible maintenance and favours demolition and development on greenfields over building re-use and refurbishment.” This should remain a central plank of our campaigning, and is an important aspect of ensuring that we keep heritage groups on side in the brownfield debate; it also contributes to the viability issue and hence to removing obstacles, since a reduction in VAT from 20% to 5% on its own could make the difference between a refurbishment being viable or otherwise.

15. “Higher densities and mixed use development to secure efficient use of land and reduce the need to travel.” While this should be an essential part of CPRE’s planning campaigning, we should not restrict this point just to brownfield development. In fact, brownfield sites are developed to significantly higher densities than greenfield, because of their location and the costs of development. We always need to be careful in campaigning for “higher densities” without qualification, but it is probably more urgent to seek better use of land on greenfield sites (subject to wider impacts) than brownfield.
16. “Effective monitoring and controls over inappropriate development in gardens.” Domestic gardens have been removed from the definition of previously developed (and hence brownfield) land, so this may no longer be a necessary part of a brownfield campaign. There are wider concerns about the development of gardens, especially with regard to the impact of increasing proportions of impermeable surface and the impact on flooding, but this is probably not a priority for CPRE at this time.

17. “Protection for urban open spaces, wildlife habitats and sites of historic importance.” This is an important part of the messaging for the campaign, as mentioned in paragraph 7 above. The attractive simplicity of ‘brownfield first’ does not do this element justice.

18. “Local brownfield strategies to tackle brownfield blight, identify opportunities for regeneration and ways to overcome obstacles to brownfield development.” This is potentially an element that could be focused on - it is the positive, constructive, locally-led side of the brownfield issue, where great traction could be achieved not only with policy makers but also with funders.

19. “A national target of at least 75% of residential development and 85% of commercial development to take place on brownfield sites.” The current Government are rather averse to setting national targets, and are particularly averse to this one on the basis of evidence that the application of the previous national brownfield target for homes (60%) may have been partly responsible for an overall reduction in housebuilding output, although the causal relationship is debatable. This is discussed in more detail below.

A return to PPG3?

20. Ministers have been clear since the publication of the NPPF that they would not set a national target for the proportion of development that should take place on brownfield sites, and that they would not reintroduce a requirement for a sequential approach to identifying housing sites, preferring that both aspects of policy should be resolved locally in response to local circumstances, with which it is difficult to argue. Their reasoning has been that Government considers that a focus on brownfield development is specified in the NPPF and implicit in other areas of Government policy, and that significant planning policy approaches should be determined locally.

21. The impact of the PPG3 policies (the sequential approach to identifying and releasing housing sites, and the 60% target for brownfield housing) appears successful on the face of it: the proportion of housing built on brownfield sites increased from 59% in 1998 (two years before the policy was put in place) to a peak of 81% in 2008, and the numbers of homes built on brownfield sites each year rose from 77,000 homes to 114,000.2

22. But there are hidden problems disguised behind these apparent gains. Firstly, overall annual housing completions fell from around 170,000 to 141,000 homes per year over the same period. This has been used by the housebuilding sector and economists to argue against the restriction of greenfield development as a part of the PPG3 approach, although there is no evidence of a direct causal link.

23. Furthermore, the increase in brownfield housing completions could be the result of some of the unintended consequences of the combination of the brownfield and residential density policies in PPG3, including development in back gardens and ‘town cramming’ (over-development of sites with high-rise flats and a lack of other necessary uses including open space), both of which informed the backlash against these policy areas. These are issues CPRE needs to be very alert to in calling for a return to similar policies, especially as our own members are often as vocal against the failures of brownfield and density policies as they are about greenfield development.

24. Another key issue is that it has never been entirely clear how effective the ‘sequential

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2 After 2008, the impacts of the ‘credit crunch’ were felt with fewer developments. There are no comparable figures published since the NPPF, but the Government’s Land Use Change statistics suggest that brownfield land has declined significantly as a proportion of overall land used for development.
approach’ to identifying and releasing sites for housing has been in practice. Even before the NPPF, there were no effective mechanisms to compel a developer to build a brownfield site, and it was inevitable that greenfield sites that were allocated in local plans, even if scheduled for construction in later phases of the plan period, would be brought forward in order to make up shortfalls in a council’s housing delivery strategy, and that other greenfield sites would be granted permission on appeal if housing targets were not being met.

25. Calling for a return to a PPG3-style brownfield first policy comprising a nationally-set target and a sequential approach may not, necessarily, be the best strategy for our brownfield campaign, in terms of gaining traction with Ministers, or of achieving the outcomes we actually seek.

Current Government initiatives

26. In campaigning for better planning for brownfield sites, we need to be aware of existing and emerging Government initiatives and respond appropriately to them. It should be noted that we believe our campaigning and evidence - particularly the #WasteOfSpace campaign and our Housing Foresight Paper series - have significantly influenced Government thinking to be much more positive and proactive towards brownfield development, but there are a number of recent issues of particular relevance or concern.

27. Focus on permissions: the Government believes that the key problem standing in the way of any development (including brownfield development) is the difficulty and expense of getting planning permission, and has put in place a lot of initiatives (such as permitted development rights and brownfield housing zones - see below) to increase the number of brownfield sites benefitting from planning consent, with the objective of securing some kind of consent on 90% of suitable brownfield sites by 2020, which is hardly a challenging objective. At least 80% of applications for planning permission are granted by councils (higher on brownfield sites), and around a third of appeals are approved. Getting planning consent on brownfield sites is not an obstacle to development. With other initiatives such as permitted development rights and ‘permission in principle’ consent may be easily expected on 100% of suitable sites. In fact, the Government currently insist that 400,000 homes could be provided on suitable brownfield sites - curiously similar to the number of homes that currently have permission on brownfield sites, suggesting that the Government’s 90% target has already been exceeded, 5 years ahead of schedule. What is probably needed is a Government target for the implementation of planning permissions on brownfield sites.

28. We are obviously not opposed to increasing permissions on brownfield sites, although some initiatives do reduce local discretion over the type and scale of development and the ability to match development with infrastructure. Initiatives relating to alternatives to ‘traditional’ planning permission, which the Government claims will increase delivery on brownfield sites, include:

- **Permitted Development Rights (PDRs).** With certain restrictions, the following types of buildings or premises can often be converted to a dwelling without the need to apply for planning permission: shops, betting offices, pay-day loan shops, amusement arcades, casinos, offices, storage/distribution facilities, agricultural buildings, and any dwelling previously converted under permitted development to a school.

- **Brownfield Housing Zones.** Councils work in partnership with developers using Government funding. The zones are similar to enterprise zones: a local development order is used to grant blanket permission for certain types of development within a defined area.

- **‘Permission in Principle’ and the statutory Brownfield Register.** The Housing and Planning Bill proposes that councils should maintain a register of brownfield land in their area - a proposal that we originally called for (although there are some issues

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with the current drafting of the legislation, which we hope will be clarified soon). It is envisaged to be published in two parts - (1) a register of all brownfield sites, and (2) those sites that are identified as being suitable for development and deliverable. The strength of this approach is that there is potential for sites on part (1) to be progressed to part (2) through regeneration programmes, investment or developer interest. Under ‘permission in principle’ sites on part (2) of the register could benefit from something equivalent to outline planning consent automatically. There are issues with how this would work in practice, which we are monitoring and will influence as the regulations and guidance are consulted upon in coming months.

29. All of the above initiatives raise some concerns, but there is a key up-side from a CPRE perspective in terms of how they might be taken into account in assessing councils’ 5-year housing land supply. In principle, at least, any sites benefitting from these alternative consents should be included within supply calculations, in line with the advice in NPPF footnote 11.

30. **Funding to kick-start development:** There are a number of different funding streams for getting development started on brownfield sites, including £6.3million for Brownfield Housing Zones and a “£1.2bn fund to build 30,000 affordable ‘starter homes’ on underused brownfield land in the next 5 years”\(^4\). All of these are valuable, but there are concerns:

- To what extent is all of this funding necessarily being put into kick-starting brownfield development - will the emphasis be on ‘starter homes’, ‘underused’ or ‘brownfield’? Would ‘underused brownfield land’ in this context include brownfield sites in the Green Belt the development of which might have more of an impact on the openness of the Green Belt, or ‘previously developed’ sites, such as airfields or hospital grounds, which are largely undeveloped?

- How does this amount of funding compare with funds channelled through the Homes and Communities Agency and others towards developing greenfield sites?

- Will this funding just go straight into the pockets of landowners whose unrealistic expectations of the value of their site is what has been the key factor affecting a site’s ‘viability’?

31. If the Government’s new initiatives and spending plans to regenerate brownfield sites are to have full effect then other national policy changes will be required. Currently developers have too much scope to undermine brownfield development by getting planning permission for nearby, competing greenfield sites instead. Planning inspectors have upheld appeals on greenfield land in areas where brownfield development has stalled, against local refusals in a number of cases, as highlighted in our 2014 report Community Control or Countryside Chaos.

Wither ‘brownfield first’?

32. The Government believes - arguably erroneously - that it has an implicit ‘brownfield first’ policy in place in the NPPF. Their argument is that if you put effort into developing brownfield sites (using a raft of initiatives such as permitted development rights, brownfield housing zones, permission in principle, and channelling money into those schemes) and meet as much housing need as is practicable on brownfield sites, then, under 5-year housing land supply rules, the fewer greenfield sites you will need. But, because there is a housing crisis and you can’t meet all housing needs on brownfield sites, you have to build on greenfield sites too. A sequential approach to releasing housing land that only holds back greenfield sites until suitable brownfield sites have all been used up would be counter-productive in terms of meeting housing needs in the short term, and, in any case, those greenfield sites will still need to be developed in the long term. They see the PPG3-style ‘brownfield first’ approach as delaying much-needed new housing development now, and the statistics on the operation of that policy appear to bear that out.

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33. Calling for a ‘brownfield first’ policy in the NPPF is unlikely to be successful.

34. It’s true to say that Government is woefully unambitious with regard to the potential contribution that brownfield sites could make to meeting housing need, with their insistence that suitable brownfield capacity is only 400,000 homes, and that most brownfield sites are in the wrong location or undeliverable. It is only local action and local evidence collated at the national level that can disabuse them of this notion - we have already persuaded them to double their previous estimate of 200,000 homes. The emerging statutory brownfield register will be a powerful tool in this regard.

35. The Government also believes that setting national targets for issues such as brownfield development is counter-productive. Again, evidence from the previous implementation of a target culture suggests that there were unintended consequences, with councils arguably accepting ‘town cramming’ in order to exceed the national target of 60% (which was unambitious given a baseline of 59%), leading to a backlash against both brownfield development and sustainable residential densities that we are still struggling to counter today.

36. There is perhaps a case for concentrating our efforts in a slightly different direction - one that works with the Government rather than against them, in particular avoiding the appearance of demanding a return to a planning policy of a previous Government, in which the following (fundable) elements might feature:

- Continued promotion of brownfield development as an essential part of urban regeneration as well as a way of protecting the countryside.
- Researching and developing effective local plan policy solutions to prioritising brownfield sites, including locally determined sequential approaches where appropriate, and proportionate approaches to brownfield design and density, and showing how Government policy could support these initiatives rather than hindering them as it arguably appears to be at present.
- Continued campaigning for financial and other rewards for brownfield development, including appropriate funding for remediation, targeted Government funding, etc., and penalties for greenfield development. Measures could include changes to VAT on refurbishment vs. new build, weighting New Homes Bonus, seeking contributions from greenfield developments towards investment in local brownfield sites, etc.
- Maximising CPRE effort to identify suitable brownfield sites for development: putting resources into campaigning for the best possible operation of the statutory brownfield register, e.g. ensuring that there is no lower size threshold for register sites, and into identifying and assessing the suitability of sites to be included in registers, especially working with heritage, amenity and wildlife organisations.
- Maximising CPRE effort to bring brownfield sites forward through local action, using neighbourhood planning powers, community land trusts, partnerships with housing associations, custom and self-build techniques etc.
- Continued campaigning for transparency in viability assessments in order to demonstrate the difference between ‘less profitable’ and ‘unviable’.
- Continued campaigning for improved compulsory purchase procedures specifically for brownfield site assembly.

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