



The
countryside
charity

CPRE, The Countryside Charity, comments to the Department for Levelling Up, Housing and Communities (DLUHC) consultation on Open consultation Strengthening planning policy for brownfield development.

Deadline: 11.45pm on 26 March 2024

BrownfieldLandConsultation@levellingup.gov.uk

Scope of the consultation

This consultation seeks views on our proposed approach to updating national planning policies related to brownfield land in the National Planning Policy Framework (NPPF) and reviewing the threshold for referral of applications to the Mayor of London.

We are CPRE, the countryside charity

We believe in countryside and green spaces that are accessible to all, rich in nature and playing a crucial role in responding to the climate emergency.

For almost a hundred years CPRE has engaged with government to ensure the planning system is responsive to the needs of rural communities and protects our thriving landscapes.

CPRE echoes the Better Planning Coalition call for all planning reforms to:

- I. Be democratic – allow meaningful community engagement and be accountable;
- II. Respond to rural affordable housing shortages;
- III. Tackle the climate emergency – reduce greenhouse gas emissions;
- IV. Tackle the biodiversity crisis – support nature recovery;
- V. Ensure beautiful places and protect heritage –respect rural landscapes; and
- VI. Enhance access to local green space for its health and well being benefits.

Below we overview our brownfield first approach and respond to the consultation questions:

<https://www.gov.uk/government/consultations/strengthening-planning-policy-for-brownfield-development>

Brownfield first policy

CPRE agrees that sustainable development should be at the heart of our planning system, and it has long since called for “the right homes in the right places” to protect our

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environment. Recognising that land is a finite and precious resource, and therefore it ought to be used wisely underpin our recommendations for the delivery of much needed housing. Therefore, CPRE advocates a 'brownfield first' policy as an overarching principle.

It is much better to reuse already developed urban land and buildings as the carbon emissions are lower per capita than green field development and support walking and cycling rather than car dependency. Urban areas have existing infrastructure and services in place, or when new infrastructure is needed it can be more easily provided, unlike in more remote countryside. Brownfield development is essential for urban regeneration and done well, it brings homes, jobs, and services closer together, reduces car dependence and enhances communities. In this way, our green fields are saved from development for our nation's future food security, its potential for nature's recovery, and from urbanisation of rural character.

In some cases a brownfield site (or part of it) might have become naturalised and be of ecological value, or could provide other benefits, such as for local amenity. In such cases, the site ought to be redesignated, or brought forward partially so development can be realised and assets that have environmental or social value are retained.

CPRE wants:

- An explicit 'brownfield first, greenfield last' approach written into the NPPF – to protect farm fields and the countryside and to regenerate urban areas.
- Removal of obstacles to brownfield development – financial support for remediating constraints, such as contaminated land.
- A plan-led approach which responds to the needs and aspirations of local communities.
- Better use of existing buildings – reduction of VAT on building repairs, which deters responsible maintenance and favours demolition and development on green fields over building re-use and refurbishment.
- Protection for urban open spaces, wildlife habitats and sites of historic importance.
- Local brownfield strategies to tackle brownfield blight, identify opportunities for regeneration and ways to overcome obstacles to brownfield development.
- A national target of at least 75% of residential development and 85% of commercial development to take place on brownfield sites.

State of brownfield report 2022

CPRE research shows that brownfield land is a perpetually regenerating resource with the current capacity now standing at 1.2 million new homes (up from 1.1 million in 2021 and 1.05 million in 2018). This capacity comes from more than 23,000 sites on over 27,000 hectares. (Compared to 21,500 sites on 26,250 ha in 2021; and 17,650 sites and 28,350 ha in 2018), see <https://www.cpre.org.uk/resources/state-of-brownfield-report-2022/> .

Brownfield land exists in all regions in England, and alarmingly most of it is not permitted (55% in 2022). Many of our urban cities and towns are the focus for brownfield land and this is known to blight the communities where they exist, leading to poorer socio-economic

indicators, including poorer health and early death. The report identifies these five local authorities with the highest capacity:

1. Southwark Borough Council – 54,550
2. Birmingham City Council – 37,326
3. Wandsworth Borough Council – 36,988
4. Manchester City Council – 36,978
5. Brent Borough Council – 29,149

Local authorities with the greatest increase in capacity are:

1. Brent Borough Council – 16,679
2. Waltham Forest Council – 13,865
3. Wandsworth Borough Council – 7,987
4. York City Council – 6,002
5. Trafford Council – 3,261

Regional dimension

There is a clear regional spread of brownfield land. Concentrations of housing capacity are observed in London (399,458 dwellings), as well as the South East as a whole (170,941 dwellings). However, the midlands and northern regions also show enormous potential with the North West (165,919 dwellings), Yorkshire and the Humber (115,052 dwellings) and the West Midlands (98,743 dwellings) coming out on top for housing capacity. The proportion of housing units with planning permission is widely distributed throughout the country, with the proportion in many regions falling around the national average of 45%. The North West, West Midlands, and Yorkshire and the Humber are lagging in terms of permission given to brownfield sites (33%, 36% and 40%, respectively). Our research led to the following recommendations:

1. Clearer policies in the new NPPF expected in 2024, which prioritise the use of brownfield land over greenfield. This should include:

- a firm presumption against giving planning permission for additional greenfield sites for development compared to those already in local plans;
- only allocating greenfield sites in local plans only if
 - sites are primarily affordable homes for local needs; or
 - where it can be shown that as much use as possible is already being made of brownfield land and providing more housing in town and city centres. This test already applies in cases where local authorities are considering building large housing developments on currently designated Green Belt land, but CPRE thinks it should apply across the country.

2. The NPPF also needs to change to require that all new developments have diversity of housing tenures (including social rent) and types as outlined by the 2018 Independent Review of Build Out.

3. The New Homes Bonus should be reformed so it is only paid out to support either development of brownfield land and/or additional affordable homes (with affordable homes needing to provide for people on average local incomes or below).
4. The Infrastructure Levy should be set at least double the rate on greenfield land compared to brownfield, to reflect the higher social and environmental costs of greenfield development absorbed by local communities, although brownfield redevelopment should still make a direct and effective contribution to meeting local affordable housing need.
5. Provide local communities with stronger mechanisms to bring brownfield land forward as a source of land supply, such as increased compulsory purchase powers. Local authorities should also have increased control of the order in which development land is built on so that suitable brownfield sites are developed first. CPRE considers a brownfield approach would support levelling up.

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List of questions

Q1. Do you agree we should change national planning policy to make clear local planning authorities should give significant weight to the benefits of delivering as many homes as possible [yes/no]? If not, why not?

No. CPRE is concerned that the proposed wording will lead to the cramming of dwellings on a site with the lowering of design standards. The Local Plan process should steer the location, density, tenure, and other policy instruments concerning community benefits, such as right to light should be carefully considered.

CPRE recommends that national planning policy gives significant weight to delivering homes on brownfield land and for local plans to identify housing requirements using up to date data in a revised standard method. Crucially, planning for housing should rely on housing needs assessments. This should ensure enough of the right type of housing is built in the right places, and this includes sufficient affordable and supported housing for our ageing population and people with additional needs, such as wheelchair accessibility.

Younger people who cannot access housing need housing to fit their budget. CPRE has shown affordable housing shortage in rural places, and particularly those for social rent. The Right to Buy has reduced social rent availability. Replacing social rented properties would help, and to date the market has not delivered enough affordable homes.

Q2. Do you agree we should change national planning policy to make clear local planning authorities should take a flexible approach in applying planning policies or guidance relating to the internal layout of development [yes/no]? If not, why not?

No. CPRE is concerned that the proposed wording will not ensure rigorous standards being applied to internal layouts to ensure for high design standards. Occupiers and neighbours have right to light and other minimum standards to be adhered to, which is increasingly important as changes in working practices mean people work routinely from home.

Q3. If we were to make the change set out in question 2, do you agree this change should only apply to local policies or guidance concerned with the internal layout of developments [yes/no]? If not, what else should we consider?

Not applicable

Q4. In addition to the challenges outlined in paragraph 13, are there any other planning barriers in relation to developing on brownfield land?

Yes. Delivery of housing completions on brownfield land has drastically declined since the introduction of the NPPF, introduction of the Housing Delivery Test (HDT) and abolition of the Regional Spatial Strategies.

CPRE groups across England have witnessed how the wording of the NPPF conspires with Planning Practice Guidance to promote green field development, in opposite direction to stated aims to make the most effective use of brownfield land. CPRE agrees local authorities should plan for enough homes and have an adequate supply of land, however the operation of the HDT has led to a green field first approach. Below is an explanation of the problem.

When failed, the HDT renders local plan policy out of date and silent, undermining the local-plan led system. The consequence of failure of the HDT is more green fields (often never intended for development) being allocated for housing. It causes social and environmental cost and considerable local frustration, especially in London, and the large urban conurbations of the Midlands and in the North of the country with huge swathes of alternative previously developed land in need of investment.

The Standard Method on which the HDT is predicated is deeply flawed. It relies on faulty affordability assumptions, which have not, nor will not, lead to lower house prices. It must be remedied. Furthermore, best available data should be relied on as a best practice for local plan and decisions on how land is used. The ONS 2014 population data was based on remarkably high population growth that has not materialised.

Government should explain how the national 300,000 homes per annum (hpa) target is derived as using ONS 2014 data only yields 217,000 hpa, the ONS updates identify 150,000 per annum and this is verified by the Census 2021 data. CPRE recommends the Standard Method be revised immediately and it should rely on best available data.

Developers routinely argue for sites with extant planning permission to be excluded from the land supply to trigger permission of other land that they have an interest in. Yet the same developers have land on their books with permission that is not developed out in a timely fashion. This unreasonable conflict of interest makes it difficult for local planning authorities to defend a five-year housing land supply. Commentators have told CPRE it is “akin to filling up a bath with water when the plug is out.” It is illogical for national policy and planning

practice guidance to require authorities to plan the housing land supply in such a way. This harmful loophole should be closed.

In 2016 CPRE commissioned independent research by Glenigan to compare the speed of development of brownfield sites compared to green field sites. When looking at over 1,000 consented developments, brownfield sites were proven to be delivered on average 6 months faster. <https://www.cpre.org.uk/resources/brownfield-comes-first-2/>

The National Brownfield Strategy 2008 progressed by Homes England (formerly English Partnerships) identified the range of planning barriers constraining previous developed land and offered a range of solutions covering issues of developability and deliverability. Many of these best practices for returning brownfield land back to beneficial use are applicable today and CPRE recommends DLUHC colleagues refer to the Strategy (we have a copy if of interest).

Q5. How else could national planning policy better support development on brownfield land, and ensure that it is well served by public transport, is resilient to climate impacts, and creates healthy, liveable, and sustainable communities?

The Government should require local planning authorities to establish a brownfield target. LPAs should be encouraged to identify all sites on the Part 1: Suitable and Part 2 Unsuitable and refresh the information on an annual basis.

An Action Plan should consider how Part 2 sites are to be ‘unlocked’ during the local plan period. CPRE considers it unacceptable that local plans do not change the developability or deliverability over the 15-year minimum of a local plan period. As mentioned, the National Brownfield Strategy 2008 had useful exemplars for overcoming constraints, including Compulsory Purchase, land assembly, ground stability and resolving contamination, etc.

A Brownfield Register ‘identification form’ should be publicly available so people can complete them to identify new sites that become available at any given time. It is important to capture the full range of small to large sites. Underused sites should also be considered, including surface car parks and single height garages.

CPRE is disappointed that only 90% of the budget for levelling-up has been used. It recognises the impacts of Covid on delaying progress, but it fears what was lacking from the Government’s approach was a strategic focus of brownfield regeneration to ensure economic growth in urban places that should contribute positively to our economy. The approach has been piece-meal, reliant on the market and it has resulted in a sizeable proportion of greenfield, ‘off-local’ plan land sites, being targeted for development, often via appeal and this has thwarted progress on brownfield reuse. Mayors in city-regions should be better supported to target strategic brownfield sites in urban areas, and in the absence of a Combined Authority an agreed Action Plan of how to best unlock brownfield land in partnership with Homes England, the private sector, registered housing providers and other local groups.

Q6. How could national planning policy better support brownfield development on small sites?

As set out above, there should be a change to the NPPF text to explicitly require a 'brownfield first approach to development.' New developments should have diversity of housing tenures (including social rent) and types as outlined by the 2018 Independent Review of Build Out.

The New Homes Bonus should be reformed so it is only paid out to support either development of brownfield land and/or additional affordable homes (with affordable homes needing to provide for people on average local incomes or below). Also, there ought not to be VAT payable on regenerating brownfield, whereas it should be payable on greenfield development. Currently, the mechanism is the wrong way around.

The Infrastructure Levy should be set at least double the rate on greenfield land compared to brownfield, to reflect the excessive costs of greenfield development to local communities, although brownfield redevelopment should still make a direct and effective contribution to meeting local affordable housing need.

Local communities should be provided with stronger mechanisms to bring brownfield land forward as a source of land supply, such as increased compulsory purchase powers. Local authorities should also have increased control of the order in which development land is built on so that suitable brownfield sites are developed first.

As stated above, in some cases a brownfield site (or part of it) might have become naturalised and be of ecological value, or could provide other benefits, such as for local amenity. In such cases, the site ought to be redesignated entirely, or brought forward partially so some development can be realised and some of the environmental or social value may be retained.

Q7. Do you agree we should make a change to the Housing Delivery Test threshold for the application of the Presumption in Favour of Sustainable Development on previously developed land [yes/no]?

Yes. However, this is caveated with the fact the HDT is currently flawed and needs to be corrected and it should reply on latest available data. Brownfield completions should be recorded as part of the improved HDT. A brownfield target should be identified by all local planning authorities (LPAs) based on whether they are urban or rural and whether they are an authority with a 35% uplift applied. When Regional Spatial Strategies contained a brownfield target local authorities delivered higher levels of brownfield completions.

Q8. Do you agree the threshold should be set at 95% [yes/no]? Please explain your answer.

No. CPRE wants more homes to be delivered reusing wasted brownfield land, however this should be a presumption in all development and not restricted to failure of the HDT, which as stated operates in a way that promotes green field development in advance of brownfield. The HDT should be reformed, and a brownfield target introduced. All local planning authorities should have a brownfield target in the housing requirement in addition to a target for affordable housing, including social housing for rent.

Q9. Do you agree the change to the Housing Delivery Test threshold should apply to authorities subject to the urban uplift only [yes/no]? If not, where do you think the change should apply?

No. CPRE wants all local authorities to effectively reuse previously developed land, especially those larger settlements where a 35% uplift has been applied, but the proposed change would potentially hamper brownfield reuse in other urban places not on the largest settlement list.

A presumption in favour of brownfield development would be welcome. The way the NPPF Section 11 is currently worded is problematic for local plan making. Recently when our representatives attended the Greater Manchester 'Places for Everyone' Development Plan Document examination, the suggested policy text being progressed by the Greater Manchester Combined Authority planners was to have a 'brownfield preference', which was locally supported. However, Christopher Katkowski KC acting on behalf of GMCA said the wording could not remain in the policy due to the NPPF wording and it was relocated into the explanatory text, which will reduce its effectiveness. This outcome was to the disappointment of local people, local planners and politicians.

Q10. Do you agree this should only apply to previously developed land within those authorities subject to the urban uplift [yes/no]?

No. Without prejudice, CPRE wants more homes to be delivered reusing wasted brownfield land, the proposed changes to the HDT will not rectify the problems as the wrong causes for under-delivery of brownfield are blamed. CPRE considers there should be more focus on brownfield through strategic leadership and local plan making, with development corporation approach where necessary to progress action and investment to unlock brownfield land.

Q11. Do you agree with the proposal to keep the existing consequences of the Housing Delivery Test the same [yes/no]? If not, why not?

No. Development of brownfield land should not be a result of HDT performance failure. As set out above, the HDT is flawed due to reliance on a Standard Method that artificially inflates the housing requirement combined with the ability of developers to exclude sites from the land supply to trigger permission of other land that they have an interest in. CPRE recommends a change to the HDT calculation and use of up-to-date data.

Local authorities need more control over where new development is located. The NPPF, since it was introduced, is widely considered as a 'developers charter' due to the focus on developer viability. It has led to a monopoly of large volume house builders controlling the market. Currently large volume house builders are the subject of an investigation for Collusion by the Market and Competition Authority for sharing information and slowing completions to keep house prices high. The Invisible Hand that Keeps on Taking, October 2023 report¹ by Sheffield Hallam University highlights this problem well. This has led to medium and small house builders being squeezed out of the market, not enough homes

¹ <https://www.shu.ac.uk/centre-regional-economic-social-research/publications/the-invisible-hand-that-keeps-on-taking>

being built, prices not being reduced, a failure to delivery affordable homes and a failure to reuse brownfield land in advance of development on green fields. Planning reforms should enable sustainable housing delivery, focused on brownfield, and diversify the market so there is genuine competition to provide the public with a choice of housing, especially in rural areas.

Q12. For the purposes of Housing Delivery Test, the cities and urban centres uplift within the standard method will only apply from the 2022/23 monitoring year (from the 2023 Housing Delivery Test measurement). We therefore propose to make a change to the policy to align with the publication of the Housing Delivery Test 2023 results. Do you agree [yes/no]? If not, why not?

No. As mentioned, the HDT is faulty due to the flawed Standard Method and use of out-of-date ONS 2014 leading to over-inflated housing requirements. Also, developers are able to argue sites out of the housing land supply to promote their own land interests so there is a clear conflict. The current system is illogical and unreasonable.

If the standard method was revised, best available data is relied on and the loophole of developers being able to argue sites (with permission for dwellings) out of the land supply it would produce better outcomes. CPRE may agree that the performance checking of how many completions are on brownfield land should commence as soon as possible. The Government should change the identified problems of the HDT.

Q13. Do you think the current threshold of 150 residential units for referral of a planning application of potential strategic importance to the Mayor of London is the right level [yes/no]?

Yes. CPRE thinks the Mayor of London should be able to consider whether the Greater London Authority or London Boroughs should be involved in residential developments of more than 150 units.

Q14. If no, what would you set as the new threshold? [300/500/750/1000/other] Please explain your answer.

Not applicable.

Q15. We continue to keep the impacts of these proposals under review and would be grateful for your comments on any potential impacts that might arise under the Public Sector Equality Duty as a result of the proposals in this document.

The planning system should yield fair outcomes for all people and be transparent, and accountable. It should support delivery of our international commitments on climate goals. It should ensure nature recovery and space to grow food in the future. Planning should protect local distinctiveness and rural landscapes by promoting good design that respects local character and history. Planning outcomes should enable people to access a decent home they can afford, and the right to accessible green space for good health and well-being. Land is finite, it should not be wasted.