

Introduction

The Home Builders Federation (HBF) and its members are grateful to the Department for Levelling Up, Housing and Communities for the opportunity to respond to its consultation on strengthening planning policy for brownfield development.

HBF is the representative body of the home building industry in England and Wales. Its members are responsible for providing around 80% of all new private homes built in England and Wales and most of our members are small or medium-sized enterprises.

Context

HBF will always support planning policy that encourages the delivery of new homes. It is important, however, that both the prevailing policy environment and the overarching narrative around that policy is clear and consistent.

This consultation comes soon after the adoption in December of a NPPF that, in emphasising that the standard method for calculating local housing need is a discretionary ceiling rather than a mandatory floor, runs very much counter to the spirit of delivering as many homes as possible. The NPPF also seeks to disapply the presumption in favour of sustainable development in more circumstances than hitherto whereas this consultation seeks to apply it in more circumstances.

Planners are well-versed in taking into account the 'efficient use of land' (helped often by density targets) and balancing in so doing on an application-by-basis considerations such as character, density, amenity, accessibility in order to come to an appropriate decision. The consequence of moving beyond efficiency into the 'maximising' of land is surely that one of those other considerations is compromised.

This consultation also raises questions as to the weight to be afforded to the different elements of the planning regime. How to weigh, for example, the spirit of this consultation, which is laudable, with a Mayoral Plan that might have different priorities and a Local Plan that might have different priorities still. The consultation alludes to National Development Management Policies, the consistency of which many in the development sector are crying out for, but the consultation highlights the foreseeable issues raised by national priorities rubbing up against Mayoral and local ones.

Whilst the re-use of derelict urban land and the optimisation of development around public transport nodes especially have been, are, and will always be sensible planning priorities, history shows¹ that the danger of a brownfield first policy is that it is interpreted as a brownfield only policy. The Competition & Markets Authority² (CMA) emphasised recently that if 300,000 homes are to be built in a year then significantly more planning permissions than that need to be granted and yet the number of new planning permissions is falling³.

¹ <https://lichfields.uk/blog/2021/october/15/a-brownfield-based-planning-policy-the-lessons-of-ppg3/>

² <https://www.gov.uk/cma-cases/housebuilding-market-study>

³ <https://www.hbf.co.uk/news/housing-pipeline-report-q4-2023-published-march-2024/>



Making the most effective use of brownfield land, it cannot be emphasised enough, will not support the provision of all of the homes we need⁴.

Question 1. 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.

Question 2. 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.

An overly rigorous interpretation of design standards may not lead to the most optimal design solution when taking all relevant factors into account. The London Plan Review includes the following in this regard:

However, there is persuasive evidence that the combined effect of the multiplicity of policies in the London Plan now works to frustrate rather than facilitate the delivery of new homes, not least in creating very real challenges to the viability of schemes. We heard that policy goals in the Plan are being incorrectly applied mechanistically as absolute requirements: as ‘musts’ rather than ‘shoulds’. There is so much to navigate and negotiate that wending one’s way through the application process is expensive and time-consuming, particularly for SMEs who deliver the majority of London’s homes.

The same principle would and should apply to internal space standards and clarity on that might helpfully be provided.

Question 3. 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. If not, what else should we consider?

No.

Whilst HBF agrees that the change should not relate to external design, there may be some circumstances where, for example, flexibility in relation to layout standards may result in a better design solution.

⁴ <https://lichfields.uk/content/insights/banking-on-brownfield>



Question 4. In addition to the challenges outlined in paragraph 13, are there any other planning barriers in relation to developing on brownfield land?

The challenges associated with the redevelopment of brownfield are mostly longstanding and mostly well-understood. More recent challenges would include the implementation of mandatory Biodiversity Net Gain; the inherent conflict introduced into the NPPF by stating that significant uplifts in the average density of residential development may be inappropriate if the resulting built form would be wholly out of character with the existing area; the implications of a policy shift⁵ towards retrofitting and away from wholesale redevelopment; and a funding landscape for locally-led regeneration that is based upon myriad funding pots⁶.

Question 5. 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 planning system can reduce barriers by either filling viability gaps caused by site-specific technical issues (the role of Homes England perhaps) and to establish the principle of development sufficiency early in the development process as to effectively de-risk the cost of bringing projects forward.

Question 6. How could national planning policy better support brownfield development on small sites?

Firstly, the consultation states that every local authority is required to publish a register of local brownfield land suitable for housing in their area and that “Permission in Principle” (PiP) has been introduced to speed-up housing-led development on brownfield sites.

HBF would politely enquire as to how many LPAs have an up-to-date brownfield register and how often PiP has been used to secure the principle of development on a brownfield site.

One reason that brownfield registers are not being used as intended is thought to be because the fee arrangements for such permissions in principle actually act as a disincentive to LPAs to prepare them because the fee paid does not recover the time involved.

Consider, for example, a site of one hectare proposed for 30 homes.

Under a conventional outline application (£6,240) and reserved matters submission (£18,720) the LPA receives £24,960 towards the cost of the development management function.

For a LPA to confer permission in principle by way of Part 2 of the register the LPA would only, having displayed the relevant notices and taken representations received in response into account, the LPA receives a fee of £5,030.

That imbalance surely needs to be addressed and LPAs rewarded, or at least compensated appropriately, for proactively identifying the small and medium sized sites that officers would like to see come forward for development.

⁵ Secretary of State decision on 20.07.23 in relation to Marks and Spencer Oxford Street (APP/X5990/V/3301508).

⁶ <https://publications.parliament.uk/pa/cm5803/cmselect/cmcomloc/744/report.html#heading-7>



Secondly, Paragraph 69 of the NPPF states that LPAs should identify land to accommodate at least 10% of their housing requirement on sites no larger than one hectare, but between 2012 and 2021 just 3% homes allocated in local plans were on sites of 1 hectare or less, which is worse than the 6% in 2011⁷.

Between 2012 and 2022 only 27% of LPAs allocated sufficient sites of 1 hectare or less to be able to meet the 10% requirement. This is because, by and large, the remaining LPAs are accommodating it in the windfall component of future supply, predicting forward historic windfall rates, rather than specifically identifying sites of this size.

As the CMA has recently concluded, Paragraph 69 could be strengthened to set out an expectation that LPAs be able demonstrate where specifically and explicitly the land is that will accommodate at least 10% of a housing requirement on small and, importantly, medium-sized sites (of up to 100 homes).

Thirdly, supplementary planning documents (SPD) like that adopted by Lewisham⁸ in 2021 offer the potential to create a more supportive policy environment, but here the recent experience in Croydon is instructive.

The net completion of homes on small sites in Croydon rose from 770 between 2012/13 and 2016/17 to 1,965 between 2017/18 to 2021/22⁹, which was almost three times as much as second-placed Barnet.

This was widely attributed to a 2019 suburban design guide SPD that won an award that year for increasing housing delivery.

However, in his campaign to become Croydon's first elected mayor, the Conservative candidate Jason Perry singled out the 'destruction of Croydon's character' as a focus for his campaign and, once elected, scrapped the 'developers charter'¹⁰ in July 2022.

Question 7. 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.

Question 8. Do you agree the threshold should be set at 95%?

Yes.

If implemented as proposed it is stated that the policy will align with the publication of the HDT 2023 results, which will need to be as soon as possible because, not only is not possible to know without it where the presumption will actually apply, the 2023 results will include two years of the 35% urban uplift having been applied and so the presumption will apply to more LPAs than at present.

⁷ https://www.savills.co.uk/research_articles/229130/347962-0

⁸ <https://lewishamsmallsites.co.uk/>

⁹ <https://data.london.gov.uk/housing/housing-in-london/>

¹⁰ <https://www.croydonconservatives.com/news/spd2-planning-document-withdrawn>



It should also be noted that the London Plan did not adopt Government policy on the assessment of housing need and so housing delivery in London will not actually be measured against the standard method plus the 35% urban uplift.

Question 9. Do you agree the change to the Housing Delivery Test threshold should apply to authorities subject to the urban uplift only? If not, where do you think the change should apply?

If this presumption is to make a meaningful difference it should apply to sustainable sites as widely as possible.

Portsmouth is the twenty first largest town in the country¹¹. Why, it could legitimately be asked, would a presumption in favour of brownfield development apply in Southampton, but not there?

If, however, it is proposed to retain a focus on the urban uplift authorities then the change to the HDT threshold should also be applied to the wider housing market area on the basis that of the twenty towns and cities that are subject to the urban uplift policy, fourteen are surrounded by the Green Belt, and the others face significant challenges around coastal flood risk, nutrient-neutrality issues, as well as other national policy constraints.

Question 10. Do you agree this should only apply to previously developed land within those authorities subject to the urban uplift?

As stated, if this presumption is to make a meaningful difference it should apply to sustainable sites as widely as possible.

Question 11. Do you agree with the proposal to keep the existing consequences of the Housing Delivery Test the same? If not, why not?

Yes.

Question 12. 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? If not, why not?

Yes.

Question 13. 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?

No.

There will, overtime, be occasions at certain times and in relation to certain schemes when referral to the Mayor may be a positive thing for an applicant if the GLA take a more pragmatic view on a project a LPA may be resistant to. At certain other times though the GLA may be keener to pursue an agenda that could be add odds with the priorities of a LPA and that may have viability implications for the project at hand.

¹¹ <https://lichfields.uk/blog/2021/january/11/your-official-top-20-the-new-standard-method-and-the-citiesurban-centres-uplift/>



Fundamentally the current 150-unit threshold is too low, which renders more projects vulnerable to systematic idiosyncrasies, and is inconsistent with what should be the GLA's interest in schemes of strategic significance to London.

Question 14. If no, what would you set as the new threshold? Please explain your answer.

A 1,000 homes threshold would capture only schemes of strategic significance, which a 500-unit threshold would not.

HBF suggest that the mixed-use development thresholds in Category 1b might also be amended so as to also capture only schemes of strategic significance.

Question 15. 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.

HBF offers no comment.

