

## Policy Position Statement

# Brownfield Development

### Purpose

The UK has a legacy of brownfield or previously developed land. Britain's current housing shortage has meant that the government is committed to an urban planning revolution on brownfield sites. This PPS discusses and sets out the position of CIWEM on brownfield development and issues around the legacy of contaminated land and its redevelopment.

### CIWEM calls for:

1. Ongoing identification of brownfield sites by all local authorities to identify those that can and should be brought back into beneficial use.
2. All sites to be appropriately assessed to ensure development is sustainable, considering:
  - ◆ social issues (needs of locals, improving blight, reducing antisocial activities)
  - ◆ economic factors (local economy and demand for housing)
  - ◆ environmental impacts and benefits
3. A definition for "brownfield" land that makes it clear that sites with significant constraints such as contamination are included in the Government's policy aims for brownfield regeneration.
4. A definition of "high environmental value" in statutory guidance to accompany the National Planning Policy Framework which refers to biodiversity quality. It also needs to be contextualised in terms of its social importance locally (use and resource value).
5. The Government's proposed brownfield register to be collated on a national scale and held centrally by a public organisation for the public benefit. It should be available as an online GIS system so that all local authorities, developers and communities can access it.
6. Fundamental infrastructure from water, energy, transport, environment and the local economy to be integrated into any plan for brownfield development to ensure that sustainable communities are created that meet the needs of current and future generations.
7. Risk assessments to be undertaken by suitably qualified persons where there is the potential of contamination on a site.

CIWEM is the leading independent Chartered professional body for water and environmental professionals, promoting excellence within the sector.

## Context

- *Brownfield* land is defined in the National Planning Policy Framework (NPPF) as land that has been previously developed.
- *Greenfield* is undeveloped land in a city or rural area either used for agriculture, landscape design, or left to evolve naturally.
- *Green belt* is a designated area of land used to prevent urban sprawl by keeping land permanently open. The NPPF states the essential characteristics of Green Belts are their openness and their permanence.
- *Brownfield-first* does not mean developing only brownfield or all brownfield sites; it involves a sequential test on land available.

Much of the land in the UK has a history of previous uses, although there are areas where there has been no significant industrial past. Due to economic and political changes over the past three decades, much former industrial land has become derelict and ripe for regeneration.

### History of brownfield planning policy

The reuse of brownfield land has been a policy objective since 1998 (figure 1). Then the government set a national target for 60% of all new development to be on brownfield land by 2008 in order to make better use of such sites and combat urban sprawl.

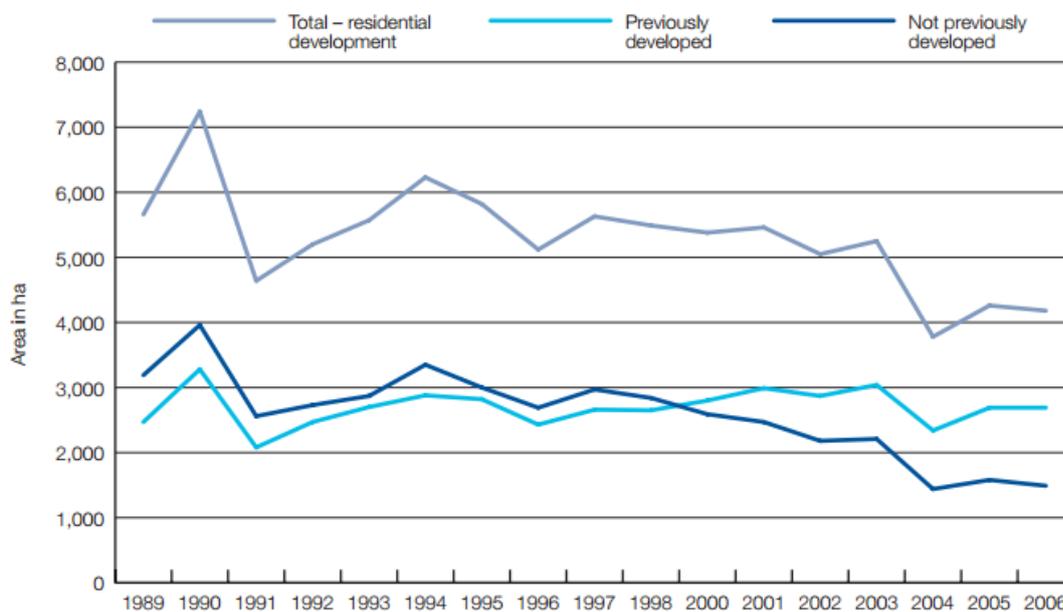


Figure 1. Previously developed land. Joseph Rowntree Foundation, 2010<sup>i</sup>

The proportion of housing being built on previous developed land, compared with greenfield sites, rose steadily from 55% in 1989 to a peak of 81% in 2008. This then dropped to 68% in 2011. Between 2008 and 2011 the proportion of housing development on greenfield sites rose by approximately 13%<sup>ii</sup>.

This target was fairly achievable, however some of the definitions of 'previously developed' were broad and included the back gardens of existing houses until recently. This led to undesirable consequences with an increasing number of new homes built on back gardens,

eroding green space and creating concerns about the impact on urban wildlife and local flood risk.

In 2006 Planning Policy Statement 3 reiterated the 60% target and stressed that Local Planning Authorities should prioritise brownfield land in their plans and take stronger action to bring more brownfield land back into beneficial use. In the same year the National Land Use Database (NLUD) looked at the 'brownfield' situation comprehensively, and had a five category classification for 'previously developed land' which included vacant and derelict land, but also noted 'buildings with redevelopment potential'.

Working with government departments, English Partnerships (the national regeneration agency for England later absorbed into the Homes and Communities Agency) was tasked with developing a National Brownfield Strategy for England (e.g. the National Coalfields Programme). The National Brownfield Forum was established to oversee and annually report on the progress of the National Brownfield Strategy from 2009<sup>iii</sup>.

From 2010, the Coalition Government thoroughly reviewed planning policy with a move towards *localism* and the word 'brownfield' seemed to fade. In 2012 planning policy statements were replaced with the slimline National Planning Policy Framework (NPPF), abolishing regional planning and the Regional Development Agencies<sup>1</sup>. Regional housing targets were removed, as well as brownfield targets and the requirement for Local Planning Authorities to report annually to the NLUD.

Following the election in May 2015, the Conservative Government announced a range of policies for brownfield land. The Government made a commitment to get planning permission in place on 90% of brownfield land suitable for housing by 2020. The *Housing and Planning Bill*<sup>iv</sup> aims to drive housing development on brownfield land both through the Starter Homes programme and a statutory register of brownfield sites where local development orders can be made. A new brownfield land register is to be created and will give automatic planning permission for housing at a stated minimum density to land on it in a bid to reduce delays and uncertainty for brownfield development<sup>v</sup>.

## Current policy and regulatory context

### National Planning Policy Framework

In England, the NPPF states:

*"Planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value. Local planning authorities may continue to consider the case for setting a locally appropriate target for the use of brownfield land."*

As the NPPF does not specifically prioritise brownfield development, developers are still favouring greenfield and green belt sites for development. The NPPF also highlights the need for adequate site investigation to back up the decision that a site is suitable.

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<sup>1</sup> The ongoing projects of the eight Regional Development Agencies were redistributed to either local government or the Homes and Communities Agency, or left to seek alternative private funding streams.

## Right to reclaim land

The Right to Reclaim Land under Section 215 of *the Town & Country Planning Act 1990* is a discretionary legal power. It is aimed at helping communities to improve their local area by freeing disused publically-owned land for new development, or improving the condition of specific zones in their town where incomplete or abandoned sites are blighting the general environment. The power to act resides with the Local Planning Authority, but pressure can be applied by residents. This was brought in in 2011 but is yet to have a significant effect.

## Local Development Orders (LDOs)

Local Development Orders are made by Local Planning Authorities and give a grant of planning permission to specific types of development within a defined area. They streamline the planning process by removing the need for developers to make a planning application to a local planning authority<sup>vi</sup>.

A Local Development Order cannot grant planning permission for a development which is likely to have a significant effect on a European Site<sup>2</sup>. Local Planning Authorities must also screen the proposed development for its likely environmental effects and decide whether an Environmental Impact Assessment is necessary<sup>3</sup>.

## Part 2A of the Environmental Protection Act 1990

Part 2A is not generally applied as a regulatory tool during the redevelopment of brownfield sites that are being regulated under planning legislation by Local Authorities. Planning policy does create a link with Part 2A however, stating that after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part 2A. Where there is no prospect of development or remediation during development is inadequate and there are unacceptable risks to human health or the environment Part 2A action could be considered.

## Key issues

### Bringing land back into use

Using previously developed sites has many significant recognised benefits, addressing neglected and disused land, recycling land back into sustainable use, improving the environment by addressing contamination issues and helping to enhance and regenerate local communities. There can also be benefits from reducing the use of greenfield sites, including reduced urban sprawl and vehicle use; together with other potential benefits from preserving soil ecosystems, biodiversity and maintaining land for food production.

The government's proposed zonal system for brownfield land does not take into account the suitability of land for development, for example whether it could add to flood risk or if it is contaminated. There is an argument that just because a site is built on at present there should not be an automatic right to re-build on it in the future. If a site is contaminated, measures might be needed to bring it back into safe and suitable use. A definition for "brownfield" land in the Government's policy aims for brownfield regeneration should make

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2 As described in the Conservation of Habitats and Species Regulations 2010

3 Under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011

clear if sites with significant constraints such as contamination are included. CIWEM believes all sites should be appropriately assessed to ensure development is sustainable, considering:

- social issues (needs of locals, improving blight, reducing antisocial activities)
- economic factors (local economy and demand for housing)
- environmental impacts and benefits

### High environmental value

Brownfield land can have significant biodiversity quality, provide ecosystem services and can form important wildlife corridors and havens in their own right. CIWEM recognises that certain brownfield sites have the potential to support a large number of rare and protected plant and animal species including invertebrates. There is also a need to recognise high quality, open mosaic sites<sup>vii</sup> and that many wildlife habitats are transient but still have value.

The NPPF encourages development on brownfield land “not of high environmental value”. This is a welcome statement however CIWEM believes that the term ‘high environmental value’ needs to be properly and consistently defined. Many national wildlife groups and developers often come into conflict over specific planning applications on brownfield sites. Without a clear definition there is a risk of a lengthy legal process for which a robust definition could help to mitigate. High environmental value should be based on the concept of ‘no net loss’ and the ‘biodiversity quality’ of a site<sup>viii</sup>.

### Sustainable development

The government has announced that under the Housing and Planning Bill there will be a statutory register of brownfield sites which is welcome. Government figures from 2014 claim that there is enough previously developed land for almost 1.5 million homes in England<sup>ix</sup>. However there is a problem that the locations of previously developed land do not always coincide with current population expansion needs<sup>x</sup>.

CIWEM believes that the Government’s proposed Brownfield register which will guide where development will be located should be collated on a national scale and held centrally by a public organisation for the public benefit. CIWEM recommends that it should be available as an on-line GIS system for all, so that local authorities, developers and communities can access it. It should be based on the National Land Use Database which is useful but could be better with the above ‘enhancements’.

The new *Housing and Planning Bill*<sup>xi</sup> will effectively give automatic permission on brownfield sites identified in the register through Local Development Orders. The government expects to see LDOs in place for homes on more than 90% of brownfield land suitable for new housing by 2020. The Royal Town Planning Institute notes<sup>xii</sup> that imposing LDO requirements would be likely to slow down progress and implementing unused planning consents would do more to increase brownfield housing.

It will be important that the LDOs do not just give permission for housing but also create the necessary infrastructure and facilities to support sustainable communities. Fundamental infrastructure and services from water, energy, transport, green space and the local economy must be integrated into any new plan to ensure that they are attractive places to live. The Community Infrastructure Levy should be used to finance these services.

## Technical skills / competence

Where land has been affected by contamination it may present a risk to a range of receptors including humans, ecosystems, water quality, and property including crops and animals. The current and future use of the land may be adversely affected.

Risk assessment underpins the management of potentially contaminated sites. Dealing with contaminated or derelict landholdings requires many technical skills, not least in dealing with regulatory and operational requirements. On any individual site, there may be only a single pollutant linkage or there may be several.

Risk assessments and risk management measures (usually remediation) should be based on information which is relevant to the site in question and should be: a) scientifically-based; b) authoritative; c) relevant to the assessment of risks arising from the presence of contaminants in soil; and d) appropriate to inform regulatory decisions.

A significant problem can be the poor standard of some environmental assessments of brownfield land and many remedial schemes. To ensure technical skill and competence, a person qualified by Chartership through a relevant professional body (CIWEM, Chartered Institute of Ecology and Environmental Management, Institution of Civil Engineers, the Geological Society, Royal Society of Chemistry, Chartered Institute of Environmental Health) or those that are on a register such as SiLC (Specialists in Land Condition) should be used. The Society of Brownfield Risk Assessment (SOBRA) has a proposal for accredited risk assessors and the Land Forum is proposing a National Quality Mark Scheme for Land affected by Contamination (QMLC) to provide visible identification of documents that have been checked for quality by a Suitably Qualified and experienced Person (SQP). These schemes are welcome to ensure that all documents are signed by a person technically competent to do so and who follow professional codes of conduct.

## Further reading and references

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- i Wong and Schulze Baing. 2010. Brownfield residential development in England. What happens to the most deprived neighbourhoods?
  - ii CPRE. 2014. Wasted space to living spaces
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  - vi DCLG. 2014. When is permission required? Planning Practice Guidance revision 06/03/2014
  - vii Buglife. Identifying open mosaic habitat.

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- viii Feest, A., Aldred, T.D. & (2010a) Biodiversity Quality: a paradigm for biodiversity. *Ecological Indicators*, 10:1077-1082.
- ix Homes and Communities Agency. 2014.  
<https://www.homesandcommunities.co.uk/ourwork/register-surplus-public-sector-land>
- x Summersgill, M. 2014. Remediation and Redevelopment of Derelict Land in the UK – Lessons learnt over three decades; challenges remaining. 7th International Congress on Environmental Geotechnics eBook ISBN978-1-922107-23-7: *Engineers Australia*. Pages 206-218
- xi Housing and Planning Bill 2015-16
- xii Royal Town Planning Institute. 2014. Building more Homes on Brownfield Land.