

Insights

BROWNFIELD PASSPORTS: A NEW TOOL TO BOOST BROWNFIELD DEVELOPMENT?

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SUMMARY

Hot on the heels of the NPPF consultation [MHCLG has published a working paper on the introduction of 'brownfield passports'](#) to encourage development of brownfield urban land in a way that goes beyond the policy support in the NPPF. This short Insight takes a look at this latest proposal and considers whether it offers something new for developers or whether it is a repurposing of existing tools.

Proposed 'brownfield passports' are being considered by the Government as a measure to increase planning certainty and reduce development risk to encourage the development of urban brownfield land. They would set parameters about the type and form of development that would be acceptable on urban brownfield land, with default approval unless specified exclusion apply, for example flood risks that cannot be mitigated.

Various options as to how 'brownfield passports' could be introduced are explored using national policy, via the new National Development Management Policy (NDMP) (to be introduced under powers in the Levelling Up and Regeneration Act 2023), to set out the parameters for acceptable development (eg on scale, height and form), or to encourage local development plans to do so, along with support for the greater use of design guides and codes to provide clarity on the types of development to be regarded as acceptable.

WIDER USE OF LOCAL DEVELOPMENT ORDERS

A further option considers the wider use of Local Development Orders (LDOs) which would essentially provide permitted development rights for development proposals that meet specified criteria on identified brownfield land within the Order limits.

Powers have been available to local planning authorities (LPAs) to make LDOs for a long time (having been introduced in the Planning and Compulsory Purchase Act 2004) but have been

underused for a range of reasons. These include availability of LPA resource for their preparation, the expansion of general permitted development rights and introduction of other planning tools, and in some cases a conservative approach to the relinquishing of planning control.

Notwithstanding this, they can be a useful planning tool to attract development as they establish the principle of development and the acceptable parameters, in a similar way to an outline planning permission but usually over a larger area for strategic sites and, importantly, signify that an LPA is “open for business”.

In practice, where LDOs have been adopted they are often subject to a large number of detailed conditions, many of which require prior approval, and may fall within the scope of the Environmental Impact Assessment Regulations 2017. So they can only simplify the planning process so far, and the extent to which they do so is largely dependent on the number of conditions and approvals individual schemes must comply with.

Whilst a parameters approach to development and the use of LDOs is not new, having a more detailed and prescriptive approach to when they should be promoted, their form and level of detail included in national policy is. If this encourages LPAs to promote them for brownfield urban land, then this could be a boost for such development.

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