

Brownfield Passport paper

Comments from the Highbury Group on Housing Delivery

While we share the objective of increasing and speeding up the delivery of development on urban land, we do not consider that the proposal for brownfield passports is an appropriate approach. The terminology is unhelpful – the term ‘passport’ implies that normal planning procedures are in some way by-passed and the use of the term ‘default’ also implies that a positive determination of an application for development should be the norm, and only disapplied in exceptional cases. The proposed changes to the NPPF to make housing development on brownfield land “acceptable in principle” (new paragraph 122(c)) threaten to override the primacy of the development plan secured under legislation, without any clarity as when the development plan or material considerations could rebut this acceptability in principle. Given that most development in urban areas is on brownfield sites, and in the case of London the proportion is 95-98%, any new approach would have widespread application. The approach would appear to be based on two questionable assumptions – that local authorities are refusing development applications which they should be approving and that the lack of positive planning decisions is a key factor in the currently low development output, especially in relation to housing output. However, the government has failed to provide the evidence for either assumption.

Local Authorities currently have a duty to identify sufficient sites to meet their objectively assessed housing requirements and a more general duty to prepare a local plan to meet the overall development requirements in their area. All planning decisions on individual applications should be consistent with the policies and land use allocations set out in the local plan, and are open to appeal if they are not. The failure to deliver sufficient appropriate development is not primarily due to the planning framework per se, but due to a number of other factors. Firstly, local authority planning has become increasingly reactive rather than proactive, with local authorities’ ability to produce evidence-based plans, site allocations and development briefs for specific sites, and strategic planning in the wider sense, being under-resourced. Secondly, most development is market led, and local authorities cannot ensure consented development actually takes place – this is partly because of their limited powers, but primarily due to their limited resources to carry out development directly, where a developer fails to proceed with an appropriate development. Councils have limited powers and resources to ensure an appropriate site is actually brought forward for development and this needs to be changed through enhanced powers for local authorities to compulsorily acquire appropriate sites at Existing Use Value. The majority of planning decisions involve compromises as few schemes are fully policy compliant and determinations reflect the requirement to ensure schemes are viable from a private sector market perspective, even if they are not fully policy compliant. This means that many schemes are not in accordance with the local planning authority’s priorities as set out in the local plan. This is especially the case in terms of the built form, type, tenure and affordability of housing schemes. This sub-optimal outcome can only be corrected with significant input of capital funding from government in terms of both housing and infrastructure provision.

Local Authorities already have the powers to allocate urban land for specific land uses, to set out planning briefs for specific sites (whether in public or private ownership) and to introduce local development orders. It is also for the local authority to set out in its local plan the optimum use of specific sites and the appropriate density to both reflect neighbourhood characteristics and to ensure appropriate development. The reality that many planning authorities don’t do this as

effectively as they should is primarily due to their lack of resources and appropriately skilled officers, as well as the pressures of assessing and determining market led planning applications within the timescales set by government. It is not however for national policy to determine what development is appropriate on a specific site, given a planning determination has to have regard to a wide range of local factors, including the responses to local consultation. The role of planning officers and councillors is to assess the relative benefits and disbenefits of a specific development proposal. It is neither appropriate or practical for national government to set out a framework for such assessments or to set out a list of exclusions. Nor is a national design code that helpful. Design is a route to achieving schemes which are compliant with planning policies as set out in a local plan. Design is not an end in itself. Minimum standards for development should be mandatory – design is a way of achieving standards, but cannot be a separate self-contained basis for determination of planning applications – the determination has to be planning policy led. The Government could however draft and promote standard planning conditions and legal agreements which would be widely applicable, so that each local planning authority does not need to draft their own set of conditions and agreements, promote delegation of powers from councillors to planning officers for small schemes and schemes which are policy compliant, and require statutory consultees to respond within fixed time limits to consultation on plans and planning applications.

The brownfield paper is in our view both muddled, confusing a range of different factors, and in fact avoids the fundamental factors in the failure of the current regime to deliver the required appropriate development, and unless the issues of local authority control over land use, project delivery, resources for proactive planning and funding of development are satisfactorily resolved, tweaking of the system to further deregulate planning, will only, as the experience of the permitted development regime has demonstrated, actually reduce the quality and appropriateness of development output. Rather than seeking to further increase densities on brownfield sites within inner urban areas which already have high residential densities, the government should positively promote incremental intensification of low density suburbs and the expansion of existing urban settlements through development of peripheral sites which can have good public transport access and utilities and social infrastructure.

Note: The Highbury Group on Housing Delivery comprises an independent group of specialists from the public, private and independent sectors with a membership drawn from housing, planning and related professions; it offers advice and makes representations to Government and other agencies on a variety of subjects, with the aim of maintaining and increasing the output of housing, including high quality affordable housing. The views and recommendations of the Highbury Group as set out in this and other papers are ones reached collectively through debate and reflect the balance of member views. They do not necessarily represent those of all individual members or of their employer organisations. The group's core membership and previous statements and research presentations are on the group's website:

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