



THE HOME BUILDERS FEDERATION

HM Treasury – Tax incentives for development of brownfield land: a consultation

Submission by the Home Builders Federation (HBF) June 2007

1. Introduction

- 1.1. The HBF has consulted across its membership on the consultation paper “Tax incentives for development of brownfield land” issued by HM Treasury in March 2007 and is pleased to make this submission on behalf of the house-building industry in England and Wales. The HBF is the principal trade organisation for private sector housebuilders and the voice of the housebuilding industry in England and Wales. Our member firms account for approximately 80% of all new homes built in England and Wales in any one year, and include companies of all sizes, ranging from multi-national household names through regionally based businesses and small local companies.
- 1.2. The industry acknowledges the beneficial impact that the introduction of land remediation relief has made to the supply of land for development and notes that the proportion of brownfield land developed by the industry for housing rose from 52% in 2000, before the introduction of the relief, to 62% by 2006¹. Whilst accepting that the rise in brownfield development cannot be wholly attributed to the introduction of the relief, we believe that it has been a contributory factor.
- 1.3. For ease of reference our responses follow the numbering set out in the “Issues for consultation” (page 17 of the consultation paper).

¹ Figures from CLG document *Land Use Change in England: Residential Development to 2006 (LUCS 22)*

2. Long-term Derelict Land

The industry would welcome the extension of the relief to long-term derelict land.

2.1. **Qualifying criteria** – we believe that the setting of a starting time-point for the definition of long-term derelict land, such as that used by the National Land Use Database (“NLUD”), is helpful but that in addition the definition of “long-term” should be changed so that land which falls derelict in the future can also be brought into scope. The suggested qualifying criterion of land being derelict at March 1998 would mean that land must not have been in use for approximately 20 years by the time the tax incentive legislation may be introduced. A five year timeframe would be more productive because if land, a scarce resource, is left derelict for such time it would suggest that there are barriers to economic development that need to be overcome. We therefore believe that the definition should not solely relate to a fixed point in time, but should be rolled forward progressively in line with an agreed qualifying period. This would be in line with the recent changes on forward land supply embodied within PPS3. Long-term derelict sites not on NLUD should not be prejudiced.

2.2. **Costs which represent a barrier to the development of long-term land** – in addition to the costs identified in section 2.10 of the consultation paper we suggest that costs of site investigation, including environmental impact assessments, costs of preparing cost plans and of investigating land title be included in the definition. Our preference would, however, be that the definition is not prescriptive, but rather provides that all costs intrinsically linked to bringing a site to a position where development can proceed should be eligible for relief.

2.3. **Costs that should be excluded** – we would contend that the inclusion of certain costs and exclusion of others engenders confusion and uncertainty and may indeed be unhelpful in a given case. Such an approach therefore risks the value of the relief being discounted. We believe, as stated in 2.2 above, that the definition should not be prescriptive, but be subject to a general test of whether any cost is clearly linked to bringing a site to a position where development can go ahead.

3. The introduction of a planning permission or other additional conditions

3.1. **Targeting relief by linking it to a requirement to have planning permission**

- 3.1.1. We believe that linking relief to the granting of planning permission would not, in itself, achieve the Government's aim of ensuring an increase in annual housing construction.
 - 3.1.2. The planning process is already complex and slow, with s106 agreements becoming increasingly complex. Making land remediation relief dependent on the expenditure being incurred pursuant to a planning condition or obligation could further increase uncertainty and cause delays.
 - 3.1.3. This raises a key question – the need for clarity of purpose and identification of the right policy mechanisms to achieve the relevant policy objectives. We believe that in principle the primary purpose of remediation relief is to stimulate the preparation of the site for future use. Whether this is a remote use or a close use, the final outcome is an increase in the stock of remediated land.
 - 3.1.4. The assumption should be that remediated land will normally come forward for development or re-use as soon as relevant opportunities arise. In the case of housing, the priority attached to the use of brownfield land, and the requirement for an identified forward supply of land under PPS3, should mean that there is no undue delay in bringing remediated land through the planning system to meet local needs.
 - 3.1.5. House builders would not expend large sums buying land and then remediating land only to sit on it. Tying relief to the grant of planning permission is not only unnecessary, but it would cause more delay and make the relief less effective.
 - 3.1.6. Attempting to link remediation with immediate development and/or planning success may on the other hand impact adversely the amount of speculative ownership and remediation by ruling out market participants who may want to take on the remediation risk but not the planning risk.
- 3.2. **Would there be benefit from applying additional conditions?** - We believe the introduction of planning or any other conditionality is a regressive proposal which would reduce the supply of previously contaminated land for housing development.
- 3.3. **The practical difficulties with this approach** – We believe that practical difficulties arise when the fiscal rules do not follow the logical commercial processes.

4. Timing of Relief

4.1. Is it possible to accelerate the relief whilst ensuring that the tax system is not open to abuse? – The industry is in favour of accelerating relief.

4.1.1. The costs of remediation tend to be incurred in the early stages of development, whilst the relief is currently granted only on legal completion of housing units which can occur several years after the expenditure has been incurred. We would propose that relief be given in the year that the expenditure is incurred.

4.1.2. The long time delay between incurring the expenditure and the receipt of the relief results in a substantial reduction in the effective value of the relief when it is eventually received. We also note that the proposed reduction in Corporation Tax from 30% to 28% will further reduce the value of relief obtained from 2008.

4.1.3. We believe that the shorter the period between expenditure being incurred and the relief being granted will result in the relief being factored more positively into land viability appraisals by our members and thus increase the land supply available for development.

4.1.4. To accelerate the relief to the year of expenditure would not open up the tax system to abuse as the expenditure would have been incurred and invoices would be available to support any claim.

4.2. What additional certainty would ensure that remediation relief is factored into financial planning? –

4.2.1. The significant acceleration of relief, as proposed in 4.1 above, would make the relief a more significant factor in the investment appraisal because its timing would be more certain.

4.2.2. Given the nature of the time-value of money, the earlier the relief is available the greater its impact on viability appraisals and the key “return on capital employed” measure.

5. Japanese Knotweed

The industry would welcome the extension of relief to include the eradication of Japanese Knotweed.

5.1. Incidence of Japanese Knotweed – Our members report that Japanese Knotweed is encountered on many sites – comments range from “almost all sites” and 90% of sites to 50%.

5.2. Is Japanese Knotweed a barrier to development? – It is a barrier to development in terms of actual cost of removal and treatment, but also in terms of the delays it causes to the commencement of development whilst it is dealt with.

5.3. The costs associated with removal – Our members report that

5.3.1. the costs of removal (cart away) are approximately £170 per cubic metre for hazardous waste to around £50 per cubic metre for non-hazardous.

5.3.2. the costs of spraying in situ are cheaper at prices from around £10 per cubic metre to £15 per cubic metre, but spraying can result in delays to development. The cost of treating by application of spray can also vary considerably.

5.4. The most effective cost treatment – As we have shown in 5.3 above there is a trade off between the higher cost of removal offsite, which is quicker, with the cheaper but slower alternative of treating in situ.

6. Exemption from landfill tax relief

Our members indicate that the majority of contaminated waste is disposed of through landfill and our industry would support the retention of the landfill exemption.

It should be noted that there will be many sites for which landfill is the only viable treatment, notwithstanding the fact that many of our members have developed processes to optimise site-based remediation and reduce the dependence on “dig and dump”. Exemption removal can only reduce the viability of brownfield land.

We believe that the withdrawal of the existing exemption would lead to an increase in direct costs and would put developments at risk rather than encouraging further remediation and development.

A switch from landfill tax exemption would also worsen cash flow as relief on remediation is received significantly later than the landfill tax is paid. This will be increasingly significant following the announced increase in the landfill tax escalator to £8 per year.

Landfill is an essential tool in the brownfield remediation armoury. On most sites there are some materials that cannot be treated, either because of their difficult nature or because of their heterogeneity. Taking away the exemption would prejudice landfill further after already significant prices rises in 2004 and, to a lesser extent, 2005 associated with the introduction of measures associated with the Landfill Directive.

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