

Building Safety Levy: Previously Developed Land evidence requirements

Previously Developed Land:

Chargeable developments which are constructed on previously developed land (PDL), sometimes known as brownfield land, and meet the regulations definition of 'previously developed site', will be charged using the 50% discounted levy rate (see regulations [20](#) and [21](#) of [The Building Safety Levy \(England\) Regulations 2025](#), to reflect the often higher cost of developing this type of land.

For the purposes of charging the levy, PDL is defined as land which either has a building on it, or had a building on it, at any point on or after 1 July 1948. However, land is not PDL if:

- the building on the land is wholly underground
- the building on the land is used for agriculture or forestry,
- the building that was most recently on the land was used for agriculture or forestry,
- the land has been developed for minerals extraction
- the land has been developed for waste disposal by landfill, or
- any operations carried out in, on, over or under the land are not lawful (within the meaning of section 191 of the Town and Country Planning Act 1990)

'Building' is defined in regulation 21 and means any (or any part of a) permanent building, permanent man-made structure, or erection (including extension). 'Structure or erection' is defined in more detail in regulation 21, but it may include areas of fixed surface infrastructure such as roads (including access, approach or estate roads), car parks and loading bays, pavements and drainage.

Examples of a previously developed site include:

- Former residential buildings
- Commercial or industrial buildings
- Roads and access roads
- Car parks and loading areas
- Hardstandings and surfaced yards
- Other permanent surfaced or load-bearing structures

A 'lawful' operation (within the meaning of section 191 of the Town and Country Planning Act 1990) is an operation which is either not currently subject to planning enforcement notice or where no planning enforcement action can be taken against it. The latter usually occurs when either the operation has planning permission, it does not involve development, or the time limits for enforcement action have expired.

Demonstration of lawfulness:

Where reliance is placed on a former structure, erection or operation, applicants should provide evidence demonstrating that the development was lawful for planning purposes.

Evidence may include:

- Planning permissions
- Certificates of Lawfulness
- Evidence that the time period for enforcement action has expired
- Other supporting planning documentation

In order to qualify for the PDL discounted rate, at least 75% of the land within the red-line boundary of the development (as specified by the planning permission) in which the works are being constructed must meet the definition of PDL set out above – this is known as a ‘previously developed site’. This is judged on the date the planning permission is granted (or if earlier the date development was begun). Where works in an application for building control approval form part of a wider development, it is the area of the planning permission for the wider development which is relevant to qualifying for the PDL rate.

Note: Any underground part of a building extending beyond a part of a building that is above ground is not taken into account for calculations for whether at least 75% of the land is PDL.

Evidence of previously developed land: (see chapter 11.4 [Building Safety Levy: Guidance - Section 3: Advice for developers of residential buildings - Guidance - GOV.UK](#))

Applicants claiming the PDL discounted rate are responsible for demonstrating that the site meets the requirements of regulations 20 and 21 of the Building Safety Levy (England) Regulations 2025 and should provide sufficient evidence to support the claim. The evidence must demonstrate that at least 75% of the land within the planning permission red-line is previously developed land.

What evidence may be accepted?

Evidence may include one or more of the following:

- Planning permissions
- Approved plans
- Prior approval determinations (development carried out under PD rights)
- Certificates of Lawfulness
- Planning documents
- Enforcement records
- Building Control records
- Ordnance Survey based maps
- Topographical surveys/existing site layout plans
- Demolition surveys
- Site investigation reports
- Google Earth historic imagery
- Dated photographs (including aerial photos)

Supporting Statement:

This should be a factual statement explaining:

- The historic development of the site
- Previous site uses
- The location of structures or surfaced areas
- How the submitted evidence demonstrates compliance with the regulations