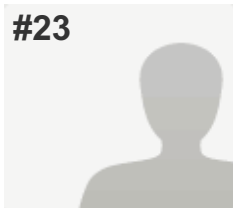


#23

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PAGE 1: CONTACT FOR FURTHER INFORMATION

| | |
|--|--|
| Q1: Name | Pascal Maebe & Bavo Peeters |
| Q2: Country? | Flanders (Belgium) |
| Q3: Jurisdiction / Organisation | OVAM |
| Q4: Email address | pascal.maebe@ovam.be, bavo.peeters@ovam.be |

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Q5: What does the term BROWNFIELD mean in your country?

According to the Decree of March 30, 2007 concerning brownfield agreements (i.e. Brownfield Decree) a brownfield is a whole of neglected or insufficient used land which is affected in such a manner that it can only be used or reused by means of structural measures.

Q6: Is the presence of contamination essential for a site to be considered a brownfield site?

No

Q7: Are brownfields managed through the normal processes applying to land development, or are there alternative processes or laws that are specific for managing (and developing) brownfields? Please detail the legal framework that is used/applied for managing brownfields. If this is different from the framework normally applied, please detail the key differences.

The normal processes of land development and spatial planning also apply to the management and redevelopment of brownfields. Additionally, specific legislation (Brownfield Decree of March 30, 2007) has been developed to facilitate and accommodate brownfield management and redevelopment.

The Brownfield Decree enables the different actors (like project developers, land owners, funders) to close a civil law based agreement with directing public parties (like municipalities, provinces, licensing or subsidizing public bodies, OVAM) and the Flemish government on the content of the brownfield project, land ownership, duration of the project, mutual commitments, the role of the steering committee, reporting and communication obligations, soil remediation and penalties. A call to which all interested parties can submit an application, is launched yearly.

This specific contractual approach creates clearness about the commitments of all parties in a very early stage, and results in legal certainty but also in some financial benefits (cfr. question 19).

Q8: Is there a specific inventory of sites that meet the above definition of a brownfield (as opposed to inventories / registers of contaminated sites)?

Yes

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Q9: Please provide details such as a web link.

Flanders does not have an official or legal inventory comprising all brownfield locations. However, brownfields are labelled in the land information register, but these locations are neither verified nor exhaustive. The land information register is public and can be consulted by requesting a soil certificate at OVAM or through the online Geoloket application <http://services.ovam.be/geoloket>. The unofficial inventory with labelled brownfield locations is not public and can only be consulted by OVAM.

Q10: How often is the brownfields inventory updated and by which authorities/organisation(s) (e.g. national – Department or Ministry, specific organisation [e.g. land registry/ site inventory, public development enterprise, etc.], regional – regions, provinces, states, autonomías, etc., local – municipality)?

N/A

Q11: What is the extent of brownfields in your country (e.g. number of hectares)?

Currently, approximately 500 sites are labelled as a brownfield. The various calls for the closure of brownfield agreements have resulted in 117 receptive applications (circa 1.549 hectares) and finally in 70 signed agreements for the redevelopment of brownfield locations. Both indicators are not exhaustive: it is very likely that not all brownfields are labelled in the land information register and that an application was not submitted for every brownfield complying with the definition.

Q12: Is this a very minor percentage or a significant percentage of the total land that is being developed?

Minor percentage

Q13: Of the potentially available Brownfields, what percentage is being developed over the next 5 year period?

Respondent skipped this question

Q14: Is there any evidence that the extent of brownfield land is growing, stable or reducing over time?

Reducing,

Please give details
Because Flanders is a very densely populated area where open space is scarce, and because of the specific legislation, brownfields tend to be redeveloped faster than they used to be. The first brownfield agreements (2009) focussed on brownfields that had been neglected for many years or decades. More recent agreements are related to sites that have been abandoned for a significantly shorter period. The number of brownfield agreements is also decreasing over time because there probably are less of them left. Developers act faster and more proactive.

Q15: What is the typical time taken for developing a brownfield site?

Between 5 and 10 years

Q16: Is this different from the time taken for developing large areas of greenfields land? If there is significant difference, why is this?

Yes,

If there is significant difference, why is this? Brownfield sites are often but not necessarily dealing with contamination. Because Flanders has a very stringent soil legislation, the mandatory soil surveys and remediation procedures demand extra time compared to greenfield development. The rezoning of land use is very demanding for greenfield as well as for brownfield redevelopment but rezoning of greenfields (often from agriculture to industry or living) often takes less time because the situation is more simple and less parties are involved. Brownfields are mostly situated in an urban context, with more parties involved and more development scenarios possible, which makes rezoning more complex. Nevertheless there is a tendency in spatial planning legislation of discouraging greenfield development, e.g. obligation to prove the necessity of a residential area in a greenfield zone.

PAGE 5: Further details

Q17: If there is a law/policy/regulation regarding brownfields, what are the key principles of this (e.g. integration with land planning legislation / regulation, fit for use vs. land uses, management tools such as restriction of uses)?

Cfr. question 7.

Q18: Are there legal, policy or regulatory imperatives that require brownfields redevelopment / reuse, or limit the amount of development that can take place on greenfield sites?

Yes,

If yes please give details Cfr. question 16.

Q19: Are there financial incentives (such as tax breaks, or grants, national / regional special funds) that encourage brownfields redevelopment? For example: State of Wisconsin (United States) Ready for Reuse Grant and Loan Program Ready for reuse loans and grants are used for environmental cleanup of hazardous substances or petroleum at brownfields throughout Wisconsin. Loan and grant funds can be used for eligible costs incurred during the grant or loan agreement period for cleanup of contamination from hazardous substances or hazardous substances commingled with petroleum. Loans. All loans are zero interest and are for long-term projects. Applicants should give strong consideration to applying for larger loan amounts (\$250,000 or greater). Grants. The maximum grant amount is \$200,000 per site. Grants will be awarded to projects that can be completed in two years. Grant applicants must own the property. Financial requirements. Loan and grant applicants must provide a minimum of 22 percent of the requested funds as a match contribution. Other state or local (but not federal) grants may be used as match “provided that the grant and loan periods overlap, the grants are for eligible cleanup activities and those activities will be incurred during the same time period.” Source: Kovalick, Walter W., Jr.; Montgomery, Robert H.. 2014. Developing a Program for Contaminated Site Management in Low and Middle Income Countries. World Bank Group, Washington, DC. © World Bank.

Yes,

If yes please give details

The Brownfield Decree provides some specific incentives for brownfield redevelopment: - Exemption of the legal obligation to provide financial guarantees to OVAM when transferring contaminated land; - Suspension or exemption of land registration costs; - Suspension or exemption of plan benefit taxes (i.e. tax on the financial benefits of rezoning); - Suspension or exemption of vacancy taxes; Generic subsidy systems which do not specifically target brownfield redevelopment but can be beneficial for it: - Subsidies for the rehabilitation of abandoned and neglected commercial areas; - Demolition subsidies; - Subsidies for the remediation of historic soil contamination.

Q20: If the brownfields involve land or groundwater contamination, can the future uses of land or groundwater be restricted for an area or precinct of land, so as to reduce the level of remediation / clean up that is required? For example:a. Can land be zoned to a less sensitive use such as commercial or park that requires less remediation? b. Can groundwater extractive use be prohibited so that the groundwater does not need to be cleaned up / remediated for extractive use? c. Can development of the land have a restriction as to the a particular type of building (eg buildings with water proof and vapour proof basements or floor slabs) to limit the requirement for clean-up / remediation?

The extent of the remediation of a historically contaminated site is risk based in Flanders, which means it depends on the environmental and human health risks related to the future land use. Visa versa, brownfield redevelopment can be planned in such a way that less remedial efforts have to be undertaken: e.g. building apartments instead of houses with garden to limit the risks of the contamination in order to decrease remedial efforts and costs.

The costs of soil remediation can be made more bearable by rezoning (e.g. from industrial to residential area) or increasing the financial viability of the redevelopment project (e.g. by permitting the building of more housing units), but always with respect for regular spatial planning procedures.

According to the Soil Decree OVAM can formulate an advice for the use of contaminated or remediated land. This is only possible when a contamination exceeds the soil remediation standards (mostly after remediation) and could still pose risks without harming the general interest. Some examples:

- Existing pavements or buildings should be maintained. Once removed, remaining contamination should be remediated.
- Ground water should not be used for drinking or watering crops.
- Water pipelines without specific composition should not be put directly into the soil.
- The land is not suited for farming or growing crops.
- For construction purposes it is advised not to dig more than two meters deep.

Q21: Are financial mechanisms [e.g. bonds, warranty, insurance, financial guarantee, etc.] required to ensure that remediation / clean-up will be carried out to the level required, or to address any problems that might appear later? If possible, please detail the existing financial tools and/or give reference/weblink.

The Soil Decree obligates the provision of a financial guarantee to OVAM before a contaminated site for which remediation is necessary, can be transferred or sold. If the party who provides the guarantee does not fulfill its commitments, OVAM will remediate ex officio and foreclose the guarantee to pay the costs. The guarantee can take the form of a bank or insurance guarantee, or a hypothecated account. OVAM can also accept other financial guarantees, when they offer enough certainty, e.g. a mortgage or bail.

Brownfields for which an agreement is negotiated according to the Brownfield Decree receive an exemption from the obligation to provide a financial guarantee to OVAM (cfr. question 19).

Q22: If the brownfields involve land contamination, is the design of a brownfield redevelopment plan determined on the basis of locating less sensitive land uses on contaminated ground, and more sensitive land use on land that is not contaminated or is less contaminated?

Such an approach is possible, but always depends on the specific characteristics of the case, e.g. apartments instead of houses with garden or construction of a parking on top of contaminated land.

Q23: How is community consultation involved in determining the design of the development?

The classic consultation procedures of spatial planning also apply to the redevelopment of a brownfield, e.g. mandatory public consultation before rezoning or the provision of a construction permit.

More specifically, before signing a brownfield agreement the Flemish government is obligated to organize at least one public consultation and information meeting for all interested stakeholders. Relevant comments, recommendations and objections formulated at this meeting(s) are taken into account before signing the final version of the agreement. Afterwards, the signed agreements can be consulted online and in the town hall of the town or city where the project is realized.

Q24: Does your jurisdiction have any particular brownfield sites that are good examples of how brownfield sites can be restored to more productive use? (provide a link to case study or no more than half a page summary of the site and approach taken).

PARK SPOOR NOORD

The Belgian Railways were active on the site Spoor Noord in the north of Antwerp during the entire 20th century. The elongated area of 24 hectares (1,6 km by 150 m) is located in a residential area and separates the districts of Stuivenberg, Eilandje and Dam. For many decades, railcars and locomotives were maintained, repaired and parked here. When these activities were relocated in 2000 an exploratory soil investigation had to be executed in accordance with the Soil Decree. It was found that the area was contaminated with mineral oil, PAHs, BTEX and heavy metals.

Surveys and participation projects clearly showed the need for more green open space in this neighbourhood and therefore the city decided that the construction of a park was most appropriate. To realize the project Belgian Railways sold an area of 18 hectares of the land to the city of Antwerp for one symbolic euro and they engaged themselves to the OVAM to carry out and finance the soil remediation. In return, Belgian Railways was allowed to redevelop another 6 hectares into a mixed area with housing, public facilities, offices, and businesses on it. To maximize the return of the developed area and to keep as many green space as possible, high-rise buildings were permitted. At present the site already accommodates the offices of Customs and Excise, two residential tower blocks and a college. In the near future a new hospital and two more towers will be added. The park has become a popular attraction and is the largest urban park in Antwerp. This green lung offers space for sports, leisure, recreation and social interaction, not only to local residents but also to people from the wider region.

DE KROOK

In the centre of Ghent a brand new multimedia district with a public library is under construction on a site along the water that was once heavily contaminated. The project was named De Krook, an old Dutch word meaning 'fold' or 'crease' which refers to the curve that the river Scheldt makes next to the site. In 1824 the city established a gasworks plant on the site. The very harmful gas production process caused a large-scale soil and groundwater contamination with coal tar and cyanide over a total area of 3,000 m² and to a depth of 8 meters. Because of its strategic location in the heart of the historic centre the redevelopment of the site can be an important leverage for economic and cultural development.

The costs of the large-scale remediation operation are collectively borne by the OVAM and the cooperative De Waalse Krook. The local water company will divert the public sewer system that runs under the site. Tons of contaminated soil must be excavated for biological or thermal treatment. In order to limit the impact at least 90 percent of the ground is carried off by boat. Instead of 1.610 trucks of about 25 tons each, 270 ships of 150 tons have transported the excavated soil.

The project includes the construction of a new library, a new Flemish research centre for new media and laboratories for the university of Ghent. The renovated Wintercircus building will house young, innovative and ambitious researchers and entrepreneurs, and businesses related to the central focus of the site: books, digital media and creativity. De Krook will thus become a place with international appearance where culture, media, economy and digital technology meet in an innovative way, and where everyone from Ghent and elsewhere can find inspiration and relaxation. The project also provides attractive squares and quays, bicycle and pedestrian lanes over the Scheldt, and new connections to the inner city.

Q25: Are there any particular problems associated with developing brownfields (particularly those that involve land and groundwater contamination) that need to be improved/addressed (e.g. funding, liability management, organisational issues, achieving closure on land or groundwater remediation / clean up)?

Yes,

If yes please give details

Remediation is expensive and the costs are often an obstacle for redevelopment. Blackfields are neglected areas where redevelopment is needed but the soil is so contaminated that remediation costs exceed the value of the land. In such cases private initiatives are lacking and government intervention is needed. OVAM developed a program to buy blackfields from bankrupt companies for 1 symbolic euro. After remediation the land is sold again to partly make up for the costs. Enforcement of the 'polluter pays'-principle is not easy in practice. OVAM can remediate brownfields ex officio when remedial obligations are not fulfilled or when land owners don't have a legal obligation to remediate. The recovery of these public remediation costs is often difficult because of liability discussions or other legal disputes. Just like for conventional redevelopment projects, spatial planning and rezoning procedures are classic bottlenecks for brownfield redevelopment too. They often lead to legal disputes and time delays.

Q26: If it is apparent that there are solutions to these problems and work is being undertaken to address these problems, please advise the nature of this.

OVAM is constantly optimizing the legal framework and looking for mechanisms to make remediation financially more achievable, e.g.:

- Introduction of a subsidy system for the remediation of historic contamination;
- BOFAS: fund for the remediation of petrol stations;
- VLABOTEX: fund for the remediation of dry cleaner;
- Fund for the remediation of fuel oil contamination (under construction);
- Protocol which enables OVAM to buy blackfields from bankrupt companies;
- Ex officio remediation by OVAM when remedial obligations are not fulfilled or when land owners don't have a legal obligation to remediate.

Q27: Are there research and development needs to address the problems arising with brownfields?

- Innovation and research for more efficient soil investigation and remediation techniques;
- Alternative financing models;
- Need for more demonstration projects and good practices.

We also refer to the INSPIRATION project which is currently running and funded by Horizon 2020. INSPIRATION wants to establish and promote the adoption of the knowledge creation, transfer and implementation agenda for land use, land use changes and soil management taking into account current and future societal challenges. The project will detect specific research and development needs.

Q28: Please give most important references (documents, website, projects, and case studies) that could be relevant for explaining your national approach

Website OVAM: www.ovam.be

Brownfield Decree: http://www.agentschapondernemen.be/sites/default/files/documenten/bf-brownfielddecreet_30_maart_2007_-_gecoördineerde_versie__3_febr_2012.pdf

All signed brownfield agreements: <http://www.agentschapondernemen.be/artikel/brownfieldconvenanten-lijst-van-de-getekende-convenanten>

Soil Decree: <https://navigator.emis.vito.be/mijn-navigator?wold=304>
