
**INTRODUCTION OF CHARGING AND LOCAL ELIGIBILITY
CRITERIA FOR THE SELF BUILD REGISTER**

**Responsible Cabinet Member – Councillor Chris McEwan
Economy and Regeneration Portfolio Councillor**

**Responsible Director – Ian Williams
Director of Economic Growth and Neighbourhood Services**

SUMMARY REPORT

Purpose of the Report

1. To advise Members of the statutory duties associated with the Self-build and Custom Housebuilding Act 2015 (as amended) (thereafter referred to as 'the Act'), one of these duties is a requirement to provide serviced self-build plots to meet an identified need.
2. Currently there is no fee to register which means persons could have their name on more than one register in the Tees Valley or wider. This could result in an over-estimation of need in the wider area and ultimately place a burden on several local authorities to provide serviced plots which would not all be required.
3. If left uncontrolled, the current arrangements could see wide interest in building self-build housing from persons with no local connection. The introduction of a charge, albeit modest, also allows the authority to recover a small part of the cost of managing the register and associated work involved.

Summary

4. The Council launched its self-build register on 1 April 2016, this met the initial duty of the Act.
5. The second duty confirms that the authority must bear this register in mind when carrying out its functions. These functions are listed as planning, housing, regeneration and the disposal of any land of the authority.
6. The final duty set out in the Act as amended is the 'duty to grant planning permission'. This requirement under Para 2A is to grant permission on sufficient serviced plots to meet the identified need on the self-build register for each base year.

7. This report seeks to reduce the burden placed on the authority by the Act, by controlling those who register by introducing a fee and by agreeing local eligibility criteria.

Recommendation

8. It is recommended that :-
 - (a) That Members note the requirements of the Self-build and Custom Housebuilding Act 2015 (as Amended) and the need for the Borough Council to publish a self-build register and meet its duty to grant planning permission for sufficient serviced plots within the Borough; and
 - (b) That Members agree to the introduction of the charging schedule as set out in this report (the proposed fees to be reviewed on a regular basis) for inclusion on Part 1 of the Self-build register;
 - (c) That Members agree to the introduction of eligibility criteria for inclusion on Part 1 of the Self-build register as set out in this report.

Reasons

9. The recommendations are supported by the following reasons :-
 - (a) The provision of self-build plots is a requirement as set out in the Self-build and Custom Housebuilding Act 2015 (as Amended). In terms of the provision of such plots these should be directed towards genuine need within the Borough.
 - (b) The introduction of a charge, albeit modest, also allows the authority to recover a small part of the cost of managing the register and associated work involved.
 - (c) Housing land is a finite resource and it is considered that without restrictions on who can apply to be on the register, persons could have their name on more than one register in the Tees Valley or wider. This could result in an over-estimation of need in the wider area. If left uncontrolled, could see wide interest in building self-build housing from persons with no local connection...

Ian Williams
Director of Economic Growth and Neighbourhood Services

Background Papers

- (i) Self-build and Custom Housebuilding Act 2015 (as Amended)
- (ii) Housing and Planning Act 2016
- (iii) Self-build and Custom Housebuilding (Time for Compliance for Fees) Regulations 2016

David Hand : Extension 6294

S17 Crime and Disorder	There are no crime and disorder implications.
Health and Well Being	N/A
Carbon Impact	N/A
Diversity	N/A
Wards Affected	All Wards affected
Groups Affected	All community groups affected
Budget and Policy Framework	'This decision does not represent a change to the budget and policy framework'.
Key Decision	A key decision which effects all wards in the Borough.
Urgent Decision	This is a non-urgent decision
One Darlington: Perfectly Placed	Will assist in ensuring we have a place designed to thrive
Efficiency	We have a statutory duty to publish a self-build register, this brings further statutory duties in the future to provide or give permission for serviced self-build plots. The introduction of charging will at least cover some of the costs associated with maintaining the register and reduce the ongoing burden to the Authority by reducing the potential number of plots which will need to be provided.
Impact on Looked After Children and Care Leavers	There is no impact on Looked After Children or Care Leavers as a result of this report.

MAIN REPORT

Introduction

10. The Self-build and Custom Housebuilding Act 2015 (as Amended) (hereafter referred to as 'the Act') placed a duty on public authorities to keep a register of individuals and associations who wish to acquire serviced plots to bring forward self-build housing. This act placed a duty on public authorities to have regard to those registers in carrying out their planning and other functions. This was enacted on 26 March 2015.
11. Since that date the Planning Policy section has produced a register for self-builders and kept it up to date. This is covered later in the report.
12. This report seeks to update Members on the mechanisms for providing serviced plots in addition to seeking approval for the introduction of both eligibility criteria and a charge to be included on the self-build register. The criteria and the proposed charges are covered in the report.

Background and Issues

13. The issue for Members consideration is to note the duty that has been placed on the Local Authority and to determine whether to adopt both a local eligibility criteria and charge for being placed upon the self-build register.

Assessment

14. The assessment will set out what self-build housing is, the duties placed upon local authorities, whether the self-build register should attract a financial charge and local eligibility criteria and how the local authority will attempt to meet the duties placed upon them.

What is Self-build housing?

15. There is a definition included within the Act as amended by the Housing and Planning Act 2016. This states that 'self-build and custom housebuilding' means the building or completion by individuals, associations of individuals or persons working with or for individuals or associations of houses to be occupied as homes by these individuals. Such housing can be either market or affordable housing.

The Duties of Local Authorities (Self-build Registers and Serviced Plots)

16. Through the Act and subsequent amendments and Regulations several burdens and duties were placed on public authorities including the Borough Council.
17. The initial duty enacted by the Act required the keeping and publicising of a register by the Borough Council that allows persons to register their interest in acquiring a plot for a self-build house.
18. The second duty confirms that the authority must bear this register in mind when carrying out its functions. These functions are listed as planning, housing, regeneration and the disposal of any land of the authority.
19. The final duty set out in the Act as amended is the 'duty to grant planning permission'. This requirement under Section 2A is to grant permission on sufficient plots to meet the identified need on the self-build register for each base year. The base year starts from the first establishment of the register. In respect of Darlington this date was 1 April 2016 with that base year ending on 30 October 2016. Para 2 of the Self-build and Custom Housebuilding (Time for Compliance for Fees) Regulations 2016 confirms that the authority has three years from the end of the base period to comply with the duty. Therefore the Borough Council has until the 30 October 2019 to meet the needs of those persons who were entered on the register in the first year and three years from each subsequent year to meet any new arising demand for self-build plots. In the first base year eight people were entered onto the register, however, this demand may be reduced depending on the outcome of this report. A further 23 persons have been entered onto the register since 31 March 2017.
20. It should be noted, however, that the duty is to provide sufficient permissions for plot demand not to actually ensure all persons on the register actually deliver a self-build home. So long as sufficient plots are approved and/or are made available that is considered to be sufficient.

The Self-build Register (Charging and Eligibility)

21. The duty to publish a self-build register was set out in the Act. The Borough Council prepared a suitable register. This can be accessed through the Council's website at: <http://www.darlington.gov.uk/environment-and-planning/planning/planning-and-environmental-policy/self-build-housing/>
22. Currently an interested party must fill in the relevant details including:
 - (a) Name and address;
 - (b) Nationality;
 - (c) The type of project (eg individual self-build);
 - (d) Previous experience;
 - (e) When they would like to commence.
23. From inspecting the information submitted to date the following is a list of notable points:
 - (a) Of all the registered persons to date there is one association interested in building 5 plots the rest are interested only in individual plots
 - (b) Of those registered 12 would be interested in group builds on larger sites;
 - (c) 8 persons are from outside of the Borough;
 - (d) In terms of timescales 20 state they are ready within the next 12 months, 6 state they were looking in 1-2 years, 4 stated 2-3 years with the remaining 1 stated it was unknown.
24. The Act under Schedule 1 sets out that the Regulations may make provision about a person's eligibility to be entered on to the register. The subsequent Self-build and Custom Housebuilding Regulations 2016 set out further details on the eligibility criteria that can be used to determine who can be entered onto the register. The criteria can include:
 - (a) A local connection test whereby a person can be requested to demonstrate a sufficient connection with the authority's area¹; and/or
 - (b) Whether a person who wishes to be entered onto the register has sufficient resources to purchase land for their own self-build.
25. Officers consider that the following criteria are sufficient to demonstrate a connection to the area. Applicants must demonstrate through the submission of appropriate documentation that;
 - (a) They have been living in Darlington Borough for three consecutive years; or
 - (b) They have previously lived in Darlington Borough for a period of three consecutive years within the past 10 years; or
 - (c) They are currently employed in Darlington Borough and have been for the past 12 consecutive months; or
 - (d) They are currently self-employed, with an ongoing viable venture where work is within the Borough, and has been for the past 12 consecutive months.

26. The Self-build and Custom Housebuilding (Time for Compliance and Fees) Regulations 2016 allow Authorities to charge a fee for entry onto the register and a separate annual fee for remaining on the register. It is considered that Darlington Borough Council should adopt a modest charge to recover reasonable costs incurred. These costs to the Council will include determining applications, maintaining the register and corresponding with entrants on the register.
27. Officers consider that it would be appropriate to charge £50 for entry onto the register and an annual fee of £25 for remaining on it.
28. Should Members agree with the above the fee should be applied to all persons either on or applying to be on the register if they meet the local eligibility tests. This includes those persons currently entered onto the register who will be contacted to determine if they meet the criteria and if so, requested to pay the £50 entry fee. It is recommended that officers should monitor the level of work involved with the process and, if necessary, seek to amend the fees at a future date and keep them under review. Should the introduction of a fee be agreed all persons entered onto the register will be notified that the fees chargeable will be subject to review and could go up
29. Where a person either does not meet the criteria or is not willing to pay to be included on the register they will be removed from Part 1 of the Register. In these instances where a person does not meet the criteria or will not pay a fee the Authority must write to them to notify them that they are not eligible for inclusion in Part 1 but that they can be entered onto Part 2 to the register. The difference between Parts 1 and 2 is that the Council has no duty to provide or ensure enough plots are made available for those on Part 2.

Meeting the Duty

30. The keeping of the register with whoever meets the agreed criteria is only half of the requirement. The second and possibly most demanding aspect of the new requirements is the duty placed upon the Authority to grant sufficient permissions to meet the identified need on Part 1 of the Register. This was explained in Paragraphs 20 and 21.
31. How this duty will be met is a difficult question. There are a number of ways in which the Authority could aim to address this need and these can include:
 - (a) A policy in the Local Plan that requires a percentage of plots on new sites (over a certain scale) to be made available for self-build;
 - (b) A policy in the Local Plan that allows self-build development on the edge of settlements in a similar manner to that permitted under the current rural exception policy H10;
 - (c) The publicising of undeveloped plots for one or a small number of dwellings and providing connections between landowners and potential self-builders. A register of available sites could be placed on the Council's website and the persons on the self-build register notified of this;
 - (d) The release of Council owned land for self-build plots or at a minimum the notification of the release of land for housing to those on the self-build register;

- (e) Bespoke requests for self-build on larger sites at pre-application and application stage.

Policies in the Local Plan

- 32. Some Local Authorities are considering the inclusion of policies that require the provision of a set proportion of self-build plots on larger housing sites. As an example a district could seek to secure 5% of plots as self-build on schemes of over 100 units.
- 33. The other option is to consider a policy that would allow the release of small sites/plots on the edge of settlements for self-build housing. This would be in a similar manner to the release of sites for local occupancy housing (rural exceptions housing).
- 34. Neither of these options is considered to represent a suitable way forward at the current time. It is not considered that the securing of a percentage of plots on a larger housing site is the panacea that other authorities believe it may be. There is little evidence to suggest that the demand for self-build plots would be satisfied within more modern housing developments; perhaps numerically but it is unlikely to be of a form and location that is of interest to those on the self-build register. There is also some trepidation from the larger housebuilders as there is less control over the design of the property that will sit within the wider development and no control over when the site will be developed. Such plots could remain vacant for many years until an appropriate buyer / self-builder is found. Which raises the question of how long would a housebuilder be expected to make the plot available for self-build before it could potentially revert back within their own portfolio. The longer the period the greater the risk to the housebuilder; a risk that would have to be incorporated into any viability assessments used to determine the delivery of affordable housing.
- 35. Officers will keep track of other Local Plans coming forward, if such policies are included and how successful they are. Notwithstanding this, options to provide self-build on large housing sites can still be explored and this is covered later in this report.

Undeveloped Plots

- 36. The Planning Section approves a significant number of planning applications each year for housing development. Many of these are for one or a small number of dwellings and a proportion of those never come to fruition. The reason for this is not known but could be a combination of finance, changing priorities for the applicant or a lack of expertise in house building.
- 37. Many of these applications remain undeveloped and often permission will expire. There would therefore appear to be untapped opportunities to bring forward housing including those of a self-build nature.
- 38. It is therefore proposed to further investigate the publicising of these sites. At the very least it is proposed to compile a list of these sites, updated bi—annually, and

uploaded to a convenient location for those on the self-build register to investigate potential opportunities. Whether actual details can be provided to the landowners of potential builders is unknown at present due to data protection issues. Such issues will have to be fully investigated before this is taken forward and will determine how it is taken forward.

39. It should also be noted that sites permitted prior to the base date (referred to earlier in the report) cannot be used to meet the Council's duty. The sites can still be publicised but the Regulations specifically state that the Council can only count sites permitted after the commencement of the self-build register to meet identified demand. Notwithstanding this, if a person on the self-build register does decide to take forward an older site the overall demand for plots will still reduce Council Owned Sites.
40. A further option to be explored is whether Council owned sites can be promoted for self-build housing. The Act suggests this should happen as it specifically states that the Council should have due regard to self-build in their duties including the release of Council land.
41. The Council is, however, also duty bound to achieve best value for its assets for the benefit of the wider population of the Borough. Therefore whilst persons on the self-build register can bid for land released by the Council they cannot be afforded special privileges in any competitive bidding process.
42. The availability of Council owned land will be investigated further with the Property Asset Management and Investment Team.

Self-Build on Proposed Sites

43. It may be feasible to deliver some self-build homes on large housing sites where it is considered appropriate. This can be done through negotiation at pre-application and formal application stage with the site promoter.
44. This is an option that officers can explore as the larger sites are submitted for consideration on an individual basis as opposed to seeking a blanket policy covering all sites that would require the Council to go through the Local Plan Examination in Public process.

Conclusions

45. Self-build housing is one means of delivering much needed homes. Whilst it is not going to make a major contribution towards the overall housing number it is a statutory requirement or duty placed on Local Authorities to firstly keep a register of interested parties and secondly to provide the requisite number of serviced plots.
46. Taking this into account it is considered wholly reasonable that the Council should ensure their efforts to provide serviced plots is aimed towards genuine local need. Without the criteria proposed in this report the Borough Council could put in significant effort to provide plots that won't actually be delivered as the applicant could be 'hedging their bets' within a number of local authority areas.

47. The imposition of a fee to be entered onto and stay on the register is also considered reasonable for the work that will have to be put in by the various Council sections, most notably the Planning Section. The fees proposed are modest and will be unlikely to cover the full costs but will allow at least some recovery of expenses and also ensure that self-builders are fully committed to building their own home.

Financial Implications

48. Given the overall low number of interested parties there are no significant financial implications to introducing a cost to be on the register apart from the generation of a small income source which will help support the on-going cost of maintaining the register.

Legal Implications

49. The Self-Build and Custom Housebuilding (Time for Compliance for Fees) Regulations 2016 allow for local authorities to charge a fee to be on the register and introduce eligibility criteria.

HR Implications

50. If the proposal affects the terms and conditions of any staff, or changes their duties and responsibilities the HR implications should be considered with advice where necessary before the preparation of the report. If the proposal could result in the redundancy of staff employed by a third part who are providing services on behalf of the council, HR advice should be sought before preparing the report.

Corporate Landlord Advice

51. There are no current implications for the authority as a corporate landlord. The recommendations in this report are likely to reduce or eliminate any future burdens.

Procurement Advice

52. There are no procurement implications.

Consultation

53. No consultation is required

Equalities considerations

54. The recommendation of this report does not impact on any particular section of society unfairly. The implications are equal for all.