

## **Self-Build and Custom Housebuilding Register: Proposed Local Connection Test**

<b>Final Decision-Maker</b>	Cabinet
<b>Portfolio Holder(s)</b>	Cllr Alan McDermott – Leader and Portfolio Holder for Planning and Transportation
<b>Lead Director</b>	Lee Colyer – Director of Finance, Policy and Development
<b>Head of Service</b>	Stephen Baughen – Head of Planning
<b>Lead Officer/Author</b>	Thomas Vint – Planning Policy Officer
<b>Classification</b>	Non-exempt
<b>Wards affected</b>	All

### **This report makes the following recommendations to the final decision-maker:**

1. That a four-week non-statutory public consultation is undertaken on the proposed introduction of a local connection test to the Self-build and Custom Housebuilding Register<sup>1</sup>.

### **Explain how this report relates to the Corporate Priorities in the Five Year Plan:**

The proposal to implement a local connection test to the Self-build and Custom Housebuilding Register is important in informing and contributing to one of the Five Year Plan's Eight Big Projects: Creating a New Local Plan for the Borough.

In supporting the self-build and custom housebuilding policy in the Local Plan, the proposal would assist in ensuring that the new Local Plan delivers housing growth that addresses and accommodates as a priority the specific needs of those with a local connection to the borough.

**Table 1 – Timetable for Current Report**

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<sup>1</sup> Subject to responses, prior to implementing the local connection test post-consultation, a further report to Cabinet would be required (see Table 2 in report).

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<b>Timetable</b>	
<b><i>Meeting</i></b>	<b><i>Date</i></b>
Agreed for publication by Head of Service	29 <sup>th</sup> November 2019
Planning Policy Working Group	17 <sup>th</sup> December 2019
Management Board	18 <sup>th</sup> December 2019
Cabinet Advisory Board	13 <sup>th</sup> January 2020
Cabinet	6 <sup>th</sup> February 2020

# Self-Build and Custom Housebuilding Register: Proposed Local Connection Test

## 1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. The purpose of this report is to seek the views of the Planning & Transportation Cabinet Advisory Board ahead of a decision by Cabinet on the proposal to undertake a non-statutory 4 week public consultation on the introduction of a local connection test to the Council's Self-build and Custom Housebuilding Register. Section 4 below outlines what the local connection test would involve.
  - 1.2. This report provides the appropriate and necessary background information on the relevant national and local policy context, as well as an explanation of the housing market circumstances that are considered to warrant giving priority to meeting the demand for self-build and custom housebuilding plots arising from those with clear connections to Tunbridge Wells borough.
  - 1.3. The report also sets out the proposed nature of the local connection test and the proposed arrangements for consultation.
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## 2. INTRODUCTION AND BACKGROUND

- 2.1. Since April 1<sup>st</sup> 2016, it has been the statutory responsibility of the Council to keep a Self-build and Custom Housebuilding Register for the borough ("the Register"). This followed the introduction of the Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) and subsequent Self-build and Custom Housebuilding Regulations 2016.
- 2.2. Defined simply, self-build and custom housebuilding is housing built by individuals or groups for their own use, either by building the home on their own or by working with builders. This means that anyone who wishes to build their own home within the borough can record their interest in doing so with the Council by signing up to the Register via the Council's self-build and custom housebuilding webpage<sup>2</sup>.
- 2.3. Inclusion on the Register does not confer any form of entitlement in terms of the provision of serviced plots. Rather, its purpose is to provide local planning authorities with demand data that they can use to understand and plan for the future need for this type of housing in their area. Authorities may, at their discretion, advise people on the Register of relevant proposals for development.
- 2.4. Additionally, authorities are expected to meet the level of need indicated by the Register, by permitting an equal number of serviced plots within the following three years to the number of registrations that are made over the preceding three years. This is a rolling requirement, running from the end of October each year. In total,

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<sup>2</sup> Self-build and Custom Housebuilding Register:

<http://www.tunbridgewells.gov.uk/residents/planning/planning-policy/self-build-register>

there have been 228 registrations on the Register since its introduction (as of October 30<sup>th</sup> 2019).

### **3. CASE FOR A LOCAL CONNECTION TEST**

- 3.1 Information from the Register has informed the proposed policy (Policy H11) for self-build and custom housebuilding plots in the Draft Local Plan. The Draft Local Plan also notes that it is difficult to predict future needs due to people being able to be on the Register of more than one authority. As such, those on the Register currently do not have to have a local connection to the area. Also, there is no obligation for those on the Register to remove their registration if their demand ceases for any reason.
- 3.2 The Draft Local Plan indicates the intention to introduce a local connection test for entry onto the Register. This is provided for in Regulations, while the supporting Planning Practice Guidance<sup>3</sup> states:

*‘The Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) enables relevant authorities to include up to two optional local eligibility tests. These are limited to a local connection test and a financial solvency test. We expect that relevant authorities will apply one or both of these tests only where they have a strong justification for doing so. They should ensure that they are proportionate and, on the case of the former, we expect these to be introduced in response to a recognised local issue. Relevant authorities should consider consulting on their proposals before they introduce the tests and should review them periodically to ensure that they remain appropriate and that they are still achieving the desired effect’*

- 3.3. The number of entries currently on the Register suggests a potential demand for some 800 self-build and custom housebuilding plots over the Plan period (i.e. up to 2036). This is clearly a substantial number and may well be difficult to accommodate within the various environmental designations across the borough.
- 3.4 Indeed, the assessment of growth potential as part of the preparation of the Local Plan has found that there are already tensions in meeting the borough’s identified housing need, such that the Council has had to advise that it is not in a position to meet any unmet general housing need from neighbouring local authorities. Furthermore, this combination of high housing pressures and the limited capacity to meet all needs supports prioritising the provision of suitable sized and priced homes to meet local needs, including for affordable housing.
- 3.5 Given the above, it follows that it would be consistent to concentrate on meeting the *local* need in the new Local Plan with regard to self-build and custom housebuilding dwellings. The attractiveness of the borough as a place to live inevitably puts it on the list of potential areas where people from all over would consider moving to and building their own house. However, there is limited capacity for growth in the borough, as already tested through the Draft Local Plan preparation, and that within this capacity the focus should properly be on providing the size and tenure of homes, and especially affordable homes, that meet local needs.

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<sup>3</sup> Self-build and custom housebuilding; Planning Practice Guidance (July 2017): <https://www.gov.uk/guidance/self-build-and-custom-housebuilding>

- 3.6 Analysis of the Council's Register indicates that only 63% of individuals on the Register for the first three base periods are local to the area (i.e. are within the borough); if a local connection test were to be introduced this would have a notable impact on the potential demand (as currently calculated), and therefore the overall requirements to be planned for.

#### **4. PROPOSED LOCAL CONNECTION TEST**

- 4.1 It is proposed that the local connection test adopts a similar set of criteria as applies to the local eligibility for rural housing exception sites (as set out in Draft Local Plan policy H7); i.e. that at least one of the following eligibility criteria must be met in order to meet the local connection test:
- a) to have lived in the borough continuously for the last three years; or
  - b) to have previously lived in the borough for a total of five years out of the last 10 years; or
  - c) to have immediate family who have lived continuously in the borough for the last three years; or a total of five years out of the last 10 years; or
  - d) to be in, or about to take up, permanent employment in the borough; or
  - e) provides an important service that requires residence in the borough.
- 4.2 In addition, national guidance states that a member (or recently retired) of the armed forces must be deemed as having met the local connection test.
- 4.3 The above approach would be consistent with the Planning Practice Guidance.
- 4.4 It should be noted that the adoption of the above eligibility criteria would not prevent others from applying to be on the Register, but their details would be held separately and would not count towards the numerical requirements for suitable serviced plots.
- 4.5 The Council's registration forms would need to be updated accordingly.
- 4.6 This report was presented at the Planning Policy Working Group on 17<sup>th</sup> December 2019. A number of comments were made about supporting the principle of consulting on the introduction of the test, with further comments raised about proposed eligibility criteria d) and e). Other comments about restricting the occupation of custom and self build dwellings (for example by planning condition) will be considered in the review of representations made on the Draft Local Plan during the Regulation 18 consultation period (27<sup>th</sup> September – 15<sup>th</sup> November) which recently concluded.

#### **5. PROPOSED CONSULTATION**

- 5.1. There is no legal requirement for consultation on the introduction of a local connection test. However, the Government's Planning Practice Guidance states that Councils "should *consider* consulting" (emphasis added) when seeking to introduce a local connection test to the Register. Undertaking a consultation will be particularly useful in understanding any unforeseen potential issues and in giving interested parties, including those currently on the Register, the opportunity to consider the proposal in advance, including the proposed eligibility criteria set out in para 4.1.

- 5.2 Planning Practice Guidance clarifies that 21 days (three weeks) of consultation is usually necessary to ensure effective and inclusive public engagement, while at least four weeks is required for supplementary planning documents. Given the role of the Register, the extent of stakeholder interest and the relatively simple nature of the proposal, it is proposed to undertake a public consultation for a total of four weeks.
- 5.3 A notification of the consultation would be circulated to all those registered on the Register, other adjoining Local Planning Authorities, as well as to all relevant self-build and custom housebuilding organisations (e.g. The Home Builders Federation, the National Custom & Self Build Association, etc.). Notice of the consultation would also be published on the Council's Self-build and Custom Housebuilding webpage prior to and during the consultation. People registered on the Council's planning policy contacts database may also be notified.
- 5.4. Subject to the comments received, the proposal would be further considered by Cabinet in June 2020 (see Table 2 for proposed timetable) to implement the local connection test and the Register amended and updated accordingly. This timetable will allow the new Local Plan to reflect the up-to-date information, following application of the local connection test, alongside feedback from the recent (27<sup>th</sup> September – 15<sup>th</sup> November 2019) public consultation on the Draft Local Plan. It is not expected that the Local Plan consultation comments will have any impact on the proposal within this report.

## **6. RELATED MATTERS**

- 6.1 There is the possibility that there are people on the Register who no longer have an interest in obtaining a self-build and custom housebuilding plot locally, perhaps because their needs have been met. It is proposed to contact everyone to confirm their intention to remain on the Register and also to complete an updated form (after the implementation of the connection test) in order to update their registration details and to determine whether they should be on the Part of the Register that relates to all the eligibility tests.
- 6.2 It is evident from the Register that many people want a single, freestanding plot on which to construct a dwelling. Of course, it is possible that many permitted single new build dwellings (which are permitted year-on-year through the usual planning application process) may fall into the self-build or custom housebuilding category. While the Draft Local Plan makes some assumptions about this, drawing on advice from neighbouring councils which benefit from data which is gathered through the operation of the Community Infrastructure Levy (CIL), it is very hard to gauge actual proportions. Therefore, it is also proposed to carry out a local survey of permitted single dwellings since April 1<sup>st</sup> 2016 to gauge the percentage of self-build and custom housebuilding dwellings. Going forward, consideration is being given to adding a related question into the Local Validation Checklist for planning applications: this would mean that applicants for new dwellings would have to confirm whether the proposed development is for a custom or self-build house(s).
- 6.3 Officers have given consideration, as allowed for by the Planning Practice Guidance, of a financial solvency test as a means of assessing whether an applicant can afford to purchase the land. However, at present, this is not found to be necessary and would be difficult to assess and monitor.

- 6.4 It is noted that some Local Planning Authorities also charge fees to those who apply to be entered on or to remain on their Register. Fees are limited to a “cost recovery basis” and are generally relatively small, although there are notable variations. However, it is presently felt that this could act as a disincentive to those with a genuine desire to build their own home and thereby suppress demand. Therefore, it is not recommended to introduce a fee for registration at this time.

## 7. NEXT STEPS

- 7.1. Subject to Cabinet approval, the non-statutory four week public consultation on the proposal to implement a local connection test is proposed to be undertaken in accordance with the following timetable in Table 2:

**Table 2 – Proposed Reporting and Implementation Timetable**

Date	Stage in Process
13 <sup>th</sup> January 2020	Planning and Transportation Cabinet Advisory Board Meeting ( <i>this meeting</i> )
6 <sup>th</sup> February 2020	Cabinet Meeting
14 <sup>th</sup> February 2020 – April 2020	Undertake 4 Week Public Consultation
20 <sup>th</sup> May 2020	Report to Management Board on whether to implement the local connection test
1 <sup>st</sup> June 2020	Planning and Transportation Advisory Board ( <i>subject to outcome of consultation may be delayed, as above</i> )
25 <sup>th</sup> June 2020	Cabinet Meeting ( <i>decision required on whether to implement local connection test to the Self-Build and Custom Housebuilding Register</i> )
Post 25 <sup>th</sup> June 2020	Implement local connection test to the Self-Build and Custom Housebuilding Register

## 8. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
<b>Legal</b> including Human Rights Act	The proposal within this report complies with the Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) and also the National Planning Practice Guidance. It should be noted that the proposal is for a non-statutory public consultation, as recommended in the guidance.	Cheryl Parks, Mid Kent Legal Services (Planning) 16-12-19
<b>Finance</b> and other resources	There is no association cost in implementing a local connection test to the Self-Build and	Jane Fineman Head of Finance

	Custom Housebuilding Register or to undertake an online non-statutory public consultation.	& Procurement 05/12/2019
<b>Staffing establishment</b>	There are no staffing implications.	Thomas Vint Planning Policy Officer 18/12/2019
<b>Risk Management</b>	All risks associated with this report are within the Council's current risk appetite and managed in accordance with its risk management strategy.	Steve Baughen Head Of Planning 10/12/2019
<b>Data Protection</b>	<p>The maintenance of the self-build and custom housebuilding Register involves the processing of personal data. Individuals are informed about the use of their data in Section F of the registration form. We will not publish any personal details of those registered as part of the public consultation and therefore there is no identified risk to individuals' interests under the General Data Protection Regulation.</p> <p>The Council is not required to publish the Register. However, it will publish general information on the demand for self-build and custom housebuilding in its Authority Monitoring Report, with personal details such as names and addresses not published.</p>	Abigayle Sankey Corporate Governance Officer 04/12/2019
<b>Environment and Sustainability</b>	No environmental and sustainability implications are identified. Any 'Self-Build and Custom House-Build' dwellings would still be required to meet all relevant environmental and energy efficiency standards.	Karin Grey Sustainability Manager 28/11/2019
<b>Community Safety</b>	No community safety issues arise as a result of this report.	Terry Hughes Community Safety Manager 22/11/2019
<b>Health and Safety</b>	No health and safety issues arise as a result of this report.	Mike Catling Corporate Health and Safety

		Advisor 25/11/2019
<b>Health and Wellbeing</b>	No health and wellbeing issues arise as a result of this report.	Thomas Vint Planning Policy Officer 18/12/2019
<b>Equalities</b>	Having regard to the requirements under the Public Sector Equality Duty (s149 of the Equality Act 2010), it is not considered that the decision recommended through this report is likely to have any differential impact on people with protected characteristics. However, this will be reviewed following the consultation.	Sarah Lavallie Corporate Governance Officer 17/12/2019 Steve Baughen Head Of Planning 18/12/2019

## 9. REPORT APPENDICES

The following documents are to be published with and form part of the report:

- None

## 10. BACKGROUND PAPERS

- Housing Supply and Trajectory Topic Paper:  
[https://beta.tunbridgewells.gov.uk/data/assets/pdf\\_file/0020/300764/Housing\\_Supply\\_and\\_Trajectory\\_Topic\\_Paper.pdf](https://beta.tunbridgewells.gov.uk/data/assets/pdf_file/0020/300764/Housing_Supply_and_Trajectory_Topic_Paper.pdf)