

READING BOROUGH COUNCIL

REPORT BY DIRECTOR OF ENVIRONMENT, CULTURE AND SPORT

TO:	STRATEGIC ENVIRONMENT, PLANNING AND TRANSPORT COMMITTEE		
DATE:	18 MARCH 2019		
TITLE:	CHANGES TO THE SELF-BUILD REGISTER PROCESS		
LEAD COUNCILLOR:	COUNCILLOR PAGE	PORTFOLIO:	STRATEGIC ENVIRONMENT, PLANNING AND TRANSPORT
SERVICE:	PLANNING	WARDS:	ALL
LEAD OFFICER:	MARK WORRINGHAM	TEL:	0118 9373337
JOB TITLE:	PLANNING POLICY TEAM LEADER	E-MAIL:	<u>mark.worringham@reading.gov.uk</u>

1. EXECUTIVE SUMMARY

- 1.1 There is a statutory requirement for the Council to maintain a Self-Build Register, which lists those who have registered an interest in building their own home in the Borough. Reading's Self-Build Register has been in existence since 2015, but up to now the Council has not sought to apply any eligibility tests or charge a fee. This report considers whether such tests or fees should be introduced, particularly since the number of entries on the Register may have implications for the Council's functions, mainly in determining planning applications.

2. RECOMMENDED ACTION

- 2.1 That Committee approves changes to the Self-Build Register process to introduce a local connection test and a test of sufficient resources.
- 2.3 That the Head of Planning, Development and Regulatory Services be authorised to make any minor amendments necessary to the specific criteria for the local connection test and test of sufficient resources in consultation with the Lead Councillor for Strategic Environment, Planning and Transport.

3. POLICY CONTEXT

- 3.1 The Government has over recent years strongly promoted self- and custom housebuilding as part of its response to the need for new homes. Self- and custom housebuilding is defined as where an individual, an

association of individuals, or persons working with or for individuals or associations of individuals, build or complete houses to be occupied as homes by those individuals.

- 3.2 There have been a variety of measures to promote such housebuilding, including exemptions from payment of the Community Infrastructure Levy, and strong backing in national planning policy. One of the key measures has been the requirement for local planning authorities to maintain a Self-Build Register of those people, or associations of people, wishing to build homes in the local area. This was introduced by the Self and Custom Housebuilding Act 2015.
- 3.3 The 2015 Act (as amended by the Housing and Planning Act 2016) includes two duties regarding self and custom housebuilding.
- 3.4 The ‘duty to grant permission etc’ means that relevant authorities must give suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area, as defined by the number of entries added to an authority’s register during a base period. The base period runs from 31st October in one year to 30th October the following year, and authorities have three years to grant sufficient permissions for each base period. This does not mean that permitted plots should necessarily be matched to the individuals on the register.
- 3.5 The ‘duty as regards registers’ means that the local authority must have regard to their Self Build Register when carrying out their planning, housing, land disposal and regeneration functions. This includes development management and preparation of Local Plans. The scale of demand on the Self Build Register therefore informed the production of Reading’s emerging Local Plan, so that draft policy H2 contains measures for seeking a portion of self-build plots from relevant developments.

4. THE PROPOSAL

(a) Current Position

- 4.1 Reading Borough Council has maintained a Self-Build Register since the end of 2015. As of December 2018 there were 168 entries on the Register. However, the flow of planning permissions for self-build homes has been very small. The Annual Monitoring Report 2017-18 records that planning permission had been granted for only 13 self-build homes up to April 2018. Although it is not necessarily clear which permitted homes are to be self-build until the applicant applies for self-build relief from the Community Infrastructure Levy (which is likely to be after planning permission is granted), it is nevertheless clear that, as it stands, the Council has little chance of fulfilling its ‘duty to grant permission etc’. Although no specific penalties for failing to meet this duty are defined, it could mean that the Council is vulnerable to planning appeals for self-build developments.

- 4.2 The current Self Build Register does not set any eligibility requirements or fee for inclusion on the list. As it stands, anyone can ask to be included, whether or not they are likely to have a serious interest in building their own home or have the means to do so. Those on the list may well also be on the Register held by multiple authorities, and in fact may well have already built their own home or found housing by another means. This means that Council policy and decisions may well be influenced by a list of entries without there being any control on how serious the intent behind each entry is.
- 4.3 Under the Self-Build and Custom Housebuilding Regulations 2016, there are three choices that a local planning can make in maintaining a register:
- Whether to charge a fee to enter or remain on the register;
 - Whether to set a local connection test; and
 - Whether to set a test of sufficient resources.
- 4.4 This report therefore considers whether the process of applying to be on the Register should include any of the three options above, in order to make sure that those on the list are those with serious intent to build their own property and the means to do so, and that the Council's costs in maintaining the Register are recovered. This would increase the chances of the Council being able to meet its statutory 'duty to grant permission etc'.

(b) Option Proposed

Charging a fee

- 4.5 The legislation enables authorities to charge a fee for entry onto the Register. Such fees can only be charged on a cost recovery basis. Guidance states that fees must "be proportionate, reflect genuine costs incurred and should not act as a deterrent for people to be entered on or remain on the register". A one-off fee can be charged, as well as a subsequent annual fee to remain on the list. Different fees can be charged for individuals and associations, and fees can also differ depending on whether an applicant fulfils the local connection test (see paragraphs 4.9-4.16).
- 4.6 A number of authorities charge fees for inclusion on the Register. These fees vary widely, from £15 in Basingstoke and Deane and £20 in Bracknell Forest up to £350 in Islington and Camden. The majority of fees charged are between £25 and £100 for initial entry onto the register, and a similar fee for annual renewal.
- 4.7 As it stands, the costs to the Council of maintaining the Self-Build Register are minimal, as the Council does not ask for any local eligibility tests to be passed, so there is no time requirement in checking submitted information. It is unlikely that costs incurred would amount to more than £10 per application. However, if the Council were to set a local eligibility test, a fee of around £40 would be likely to cover the

costs. Further inclusion of a test of sufficient resources could increase this to around £60.

- 4.8 However, there is another aspect to charging a fee, which is that it may raise expectations that entrants to the register will be provided with a service over and above mere inclusion in a register, e.g. be offered a plot of land to buy or some form of brokerage. This will not be the case in Reading, as the number of self-build plots becoming available will be very limited, and there are no guarantees that those on the Register will be those who build their own homes, and no duty on behalf of the Council to match individuals on the register to plots. Given that the number of new entrants each year onto the Register will be relatively small, averaging around one per week for the last three years, and could potentially decline with the introduction of local eligibility tests, it is recommended that introducing a charge would not be worthwhile. In any case, the Council has received New Burdens Funding from Government (see section 9) which is of a level that would cover most of the costs of maintaining the Register in the first year.

Local Connection test

- 4.9 The local connection test enabled by the Regulations should be proportionate and “introduced in response to a genuine local issue” according to Planning Practice Guidance. In summary, it is considered necessary to prioritise those with a local connection for the following reasons:
- The Council already has difficulty meeting housing needs, with a small shortfall of housing as compared to need identified in its emerging Local Plan;
 - Recent years have seen low household formation rates, as the housing market has made it difficult for those already living in the Borough, particularly younger people, to live independently¹;
 - There are expected to be very limited self-build plots becoming available, with much of future housing supply likely to be in the form of flats, and the need for provision of affordable housing taking priority on many sites.
- 4.10 It is up to each local authority which criteria to consider this test against, but the Guidance suggests that “relevant authorities may wish to consider criteria based on residency, having a family member residing in the local area and / or having an employment connection to the local area”. The Guidance also suggests that authorities may wish to undertake consultation on local eligibility tests, but does not require it.
- 4.11 A significant number of other authorities across the UK (particularly those in areas of housing pressure such as national parks) have applied local connection tests. Wokingham Borough Council recently introduced a local connection test asks for applicants to have lived in (or have

¹ See the Berkshire (including South Bucks) Strategic Housing Market Assessment, 2016 – www.reading.gov.uk/planningpolicy

family members who have lived in) or worked in the Borough for five years. However, this is among the longest time periods required, with periods between six months and three years being specified by the majority of local authorities.

- 4.12 It is considered reasonable that for those living or working in Reading, a period of two years should be specified. Two years reflects some degree of permanence in the connection, without being overly onerous. If the local connection is through an immediate family member, it is considered that the time period should be longer, and that five years would be justified.
- 4.13 The specific criteria proposed are that an applicant should:
- Have lived in Reading Borough for at least two years; and/or
 - Have been in full-time employment (greater than 16 hours per week) within Reading Borough for at least two years; and/or
 - Have an immediate family member who has lived in Reading Borough for the past five years. Immediate family are defined as a close relative, limited to spouse/partner, parent, sibling or adult child²).
- 4.14 It is recommended that delegated authority be granted to make amendments to the specific criteria above to respond to issues that may arise through operation of the criteria.
- 4.15 It should be noted that the 2016 Regulations specify that any current or former armed services personnel automatically pass any local connection test as long as their application is within the same time period of their service as the longest of any time periods specified in the local connection test. In the case of the proposal above, this would be five years.
- 4.16 It should also be noted that those who do not pass a local connection test should still be included on the register, but that the register is then split into parts 1 and 2. Part 1 contains the list of those who pass the test, and it is only part 1 which is counted for the 'duty to grant permission etc'.

Test of sufficient resources

- 4.17 The Council is not required to specifically justify requiring a test of sufficient resources. Applying this test is logical, as it ensures that those on the register are those who would be in a position to actually build if a plot were available, rather than those with only a passing interest in self-build.
- 4.18 The likely minimum cost of purchasing a self-build plot of land in Reading is estimated to be £75,000. This is consistent with the minimum figure generally used for valuation purposes by the Council. It is therefore recommended that a test of sufficient resources be introduced which

² This includes half-siblings, step-children, step-parents and step-siblings

requires applicants to demonstrate that they have, or would be able to access, funds to purchase land worth £75,000.

4.19 The following detailed criteria are proposed:

- An offer for a self-build mortgage from a verifiable lender (for example, a member of the Council of Mortgage Lenders). Any evidence provided must clearly show that the release of funds for the purchase of land - which is usually the first phase of funding released - would amount to at least £75,000.
- Written confirmation and evidence from a qualified financial advisor with active membership of a verifiable and appropriate professional body. This evidence should clearly outline that the applicant has sufficient readily accessible funds/equity to purchase land at the value of at least £75,000.
- Any other information which demonstrates, to the Council's satisfaction, that the applicant has sufficient resources to purchase land for their own self-build and custom housebuilding.

4.20 As for the local connection test, it is recommended that delegated authority be granted to make amendments to the specific criteria above to respond to issues that may arise through operation of the criteria, and to allow the specified land value to change in line with any land value changes locally.

4.21 It should be noted that tests of sufficient resources generally relate only to whether the purchase of land could be financed, and not the funding of the build itself.

Next steps

4.22 Subject to approval by this Committee, the new tests can be brought into force by 1st April 2019. The Council will contact the existing entrants on the list, and ask them to demonstrate compliance with the two tests. Those that cannot demonstrate compliance with the local connection test will remain on the register, but only on part 2, which does not count towards the 'duty to grant permission etc'.

(c) Other Options Considered

4.23 There are the following alternative options to the recommendations:

- Apply charges to be on the register; and
- Not apply local eligibility tests.

4.24 Applying charges to the register is discussed in paragraphs 4.5-4.8. The principal concern with charging is that it creates an expectation that there will be a more substantial service provided, which would not be the case. Charges would cover the limited costs, but are not considered to be necessary.

4.25 Not applying any local eligibility tests would continue the status quo, where the Register is likely to overestimate the extent of genuine local

interest in self-build. This makes it more likely that the Council will fail its 'duty to grant permission etc' and potentially may result in the loss of planning appeals. It also means that skewed figures of demand could influence the discharge of some of the Council's functions in complying with the 'duty as regards registers'.

5. CONTRIBUTION TO STRATEGIC AIMS

- 5.1 Ensuring that the Self-Build Register prioritises those with a local connection and genuine interest in self- and custom housebuilding will help to achieve the priority to improve access to decent housing to meet local needs in the Corporate Plan 2018-21.

6. COMMUNITY ENGAGEMENT AND INFORMATION

- 6.1 There is no requirement to undertake community involvement on how the Council operates the Self-Build Register. Planning Practice Guidance suggests that local authorities "should consider consulting on their proposals before they introduce the tests", but does not require it. It is not considered that consultation is necessary in this case. Unlike for many authorities, the demands on limited land in Reading mean that self-build will remain a very minor element of housebuilding, and, even where it does take place, the register itself will not have a particular role in delivering plots for individuals. For this reason, it is not considered proportionate or a good use of resources to undertake consultation on this matter.

7. EQUALITY ASSESSMENT

- 7.1 The Scoping Assessment, included at Appendix 1 identifies that an Equality Impact Assessment (EqIA) of the changes to the Self Build Register is not required.

8. LEGAL IMPLICATIONS

- 8.1 Section 1 of the Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) requires each relevant authority to keep a register of individuals and associations of individuals who are seeking to acquire serviced plots of land in the authority's area for their own self-build and custom housebuilding.
- 8.2 Section 2 of the 2015 Act includes a duty to have regard to the register when carrying out its functions relating to planning, housing, the disposal of any land of the authority and regeneration. This is referred to as the 'duty as regards registers'.
- 8.3 Section 2A of the 2015 Act (as amended by the Housing and Planning Act 2016) includes a duty to give suitable development permission in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area (as evidenced by the

register) arising in each base period. This is referred to as the ‘duty to grant permission etc’.

- 8.4 Regulation 4 of the Self-Build and Custom Housebuilding Regulations 2016 states that an individual is eligible for inclusion in Part 1 of the register if that individual:
- (a) is aged 18 or over;
 - (b) is a British citizen, a national of an EEA State other than the United Kingdom, or a national of Switzerland;
 - (c) satisfies any conditions set by the relevant authority under regulation 5 (local eligibility conditions);
 - (d) has paid any fee required by the relevant authority to be paid to be entered in or to remain on the register; and
 - (e) is seeking (either alone or with others) to acquire a serviced plot of land in the relevant authority’s area for their own self-build and custom housebuilding.
- 8.5 Regulation 5 of the 2016 Regulations sets out which local eligibility conditions can be required, which are limited to demonstrating that an individual has (a) sufficient connection with the authority’s area and (b) sufficient resources to purchase land for their own self-build and custom housebuilding. There is an exemption from the local connection test for any person in the service of the regular armed forces, whilst in service and for a period after leaving service equal to the length of the longest of any periods required by the local connection test.

9 FINANCIAL IMPLICATIONS

- 9.1 Currently, maintenance of the Self-Build Register has minimal financial costs and is managed from existing budgets.
- 9.2 The introduction of the local connection test and test of sufficient resources, as proposed by this report, will increase the administration requirements on each individual application, but is also likely to reduce the amount of applications. It is expected that in overall terms this will slightly increase administration costs, but that this could continue to be managed within existing budgets.
- 9.3 The 2015 Act enables local planning authorities to recover costs in administering the register by charging a fee. This report does not propose to charge a fee, for the reasons set out in paragraphs 4.5 to 4.8. A fee could be introduced at any point in the future if experience of administering the new tests indicates that it is required.
- 9.4 The introduction of the Self-Build Register resulted in the Government providing New Burdens Funding (unringfenced) in the following amounts, paid at the end of the financial year. This is expected to be sufficient to cover administration costs to the Council for the next financial year.

2015-16	£5,850
---------	--------

2016-17	£15,000
2017-18	£30,000
2018-19	£30,000
2019-20	£15,000
Total	£95,850

Value for Money (VFM)

- 9.4 The changes proposed in this report would represent value for money as they would reduce the likelihood of the Council failing to meet its legal duties under the 2015 Act.

Risk Assessment

- 9.5 There are no direct financial risks associated with the report.

BACKGROUND PAPERS

- Self-build and Custom Housebuilding Act 2015
- Self-Build and Custom Housebuilding Regulations 2016
- Planning Practice Guidance on Self-build and Custom Housebuilding

APPENDIX 1: EQUALITY IMPACT ASSESSMENT

Provide basic details

Name of proposal/activity/policy to be assessed:

Changes to the Self-Build Register

Directorate: DENS - Directorate of Environment and Neighbourhood Services

Service: Planning

Name: Mark Worringham

Job Title: Planning Policy Team Leader

Date of assessment: 23/01/2019

Scope your proposal

What is the aim of your policy or new service?

To set eligibility tests for those applying to join the Self-Build Register.

Who will benefit from this proposal and how?

Whilst this change will affect those applying to be on the Self-Build Register, its actual effects on those applicants are very limited as the Self-Build Register does not offer any particular access to self-build plots. It will prioritise those with a local connection for entry on the list. The main benefit of the changes will be to reduce the chances that an over-estimation of the demand for self-build will unduly influence planning decisions. This will beneficially affect the quality of those planning decisions and will therefore benefit the wider community.

What outcomes will the change achieve and for whom?

As above, the main outcome will be reducing the risk of planning decisions reflecting unrealistic estimates of demand, which will benefit the wider community.

Who are the main stakeholders and what do they want?

Those interested in self- and custom housebuilding in Reading - access to appropriately priced serviced plots within the Borough, and information on any self-build opportunities that arise.

Developers and landowners - to be able to bring forward viable developments, which may or may not include an element of self-build.

Assess whether an EIA is Relevant

How does your proposal relate to eliminating discrimination; promoting equality of opportunity; promoting good community relations?

Do you have evidence or reason to believe that some (racial, disability, gender, sexuality, age and religious belief) groups may be affected differently than others? (Think about your monitoring information, research, national data/reports etc)

Yes No

Is there already public concern about potentially discriminatory practices/impact or could there be? Think about your complaints, consultation, feedback.

Yes No

If the answer is **Yes** to any of the above you need to do an Equality Impact Assessment.

If No you **MUST** complete this statement

An Equality Impact Assessment is not relevant because: The profile of those wishing to build their own homes does not necessarily relate particularly to any of the protected characteristics. The regulations specify that only those over 18 and who are UK, EEA or Swiss nationals are eligible, but this is the case with or without the proposed changes to the Register.

Signed (completing officer)	Mark Worringham	Date: 23 rd January 2019
Signed (Lead Officer)	Mark Worringham	Date: 23 rd January 2019