

Decision Maker: DEVELOPMENT CONTROL COMMITTEE

Date: 19 November 2020

Decision Type: Non-Urgent Non-Executive Non-Key

Title: SELF-BUILD AND CUSTOM HOUSEBUILDING REGISTER –
LOCAL CONNECTION TEST

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Chief Officer: Tim Horsman, Assistant Director (Planning)

Ward: (All Wards);

1. Reason for report

- 1.1 Following the introduction of the Self Build and Custom Housebuilding Act 2015, the Council has a Duty to hold a register of people who are seeking to acquire serviced plots of land in their area in order to build homes for their occupation.
- 1.2 Bromley's register first came into effect in April 2016, reflecting the regulations at the time. Regulations introduced subsequently allow local authorities to introduce additional criteria for entry onto the register – including a local connection test. This report seeks the Committee's agreement to introduce a local connection test which would require entrants onto the register to live in the Borough for a certain period of time in order to be eligible for acceptance onto the register.
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2. **RECOMMENDATION(S)**

- 2.1 Members are asked to agree the introduction of a local connection test which will be used to assess future applications for entry onto the Bromley self-build and custom housebuilding register; and also applied retrospectively by writing to existing entrants on the register and inviting them to provide information to demonstrate that they meet the local connection test, in order to remain on the register.

Impact on Vulnerable Adults and Children

1. Summary of Impact: No impact
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Corporate Policy

1. Policy Status: Not Applicable
 2. BBB Priority: Regeneration
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Financial

1. Cost of proposal: Not Applicable
 2. Ongoing costs: Costs of maintaining the Self-build and custom housebuilding register met by the Planning Policy and Strategy budget. Some grant funding has been available to assist with this work in recent years.
 3. Budget head/performance centre: Planning Policy and Strategy
 4. Total current budget for this head: £0.568m
 5. Source of funding: Existing Revenue Budget for 2020/21
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Personnel

1. Number of staff (current and additional): 10 FTE
 2. If from existing staff resources, number of staff hours: N/A
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Legal

1. Legal Requirement: Statutory Requirement: The Self-Build and Custom Housebuilding Act 2015 (as amended); The Self-build and Custom Housebuilding Regulations 2016
 2. Call-in: Not Applicable
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Procurement

1. Summary of Procurement Implications: N/A
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): N/A
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

- 3.1 The Self-Build and Custom Housebuilding Act 2015 (“the Act”) (as amended by the Housing and Planning Act 2016) requires local authorities 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. Further detail on how this register should be operated is set out in the Self-build and Custom Housebuilding Regulations 2016 (“the Regulations”)
- 3.2 The register is an indicator of demand for self-build and custom housebuilding in the area and should, along with other information, inform the Council’s work on future housing need and supply. The Council has a duty to grant planning permission for enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in its area.
- 3.3 The level of demand is established by reference to the number of entries on the self-build register during a “base period”. This is a period beginning on 31 October of any given year and ending on 30 October the following year. The Council has three years to permit the equivalent number of plots as there are entries on the register for a particular base period. There is no requirement for these permissions to be granted specifically for people on the register, although Government guidance¹ states that the Council should consider informing those on the register when they have permissioned suitable land.
- 3.4 Bromley’s register came into effect in April 2016. Currently, any individual or group of individuals that meet the basic eligibility criteria set in the Regulations can be registered on any local authority list, so there is often overlap between Registers in neighbouring areas, as people will register on multiple registers; this serves to inflate actual demand for self-build. The basic eligibility criteria requires applicants to:
- be aged 18 or older;
 - be a British citizen, a national of a EEA State other than the United Kingdom, or a national of Switzerland; and
 - be 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 project.
- 3.5 Table 1 shows the number of entries on Bromley’s Self Build Register within the different base periods.

Table 1: entries on Bromley’s Self Build and Custom Housebuilding Register

Base Period	Period	Entries onto the register	Date by which demand in base period needs to be met by
1	1 April 2016 to 30 October 2016	0	30 October 2019
2	31 October 2016 to 30 October 2017	36	30 October 2020
3	31 October 2017 to 30 October 2018	22	30 October 2021
4	31 October 2018 to 30 October 2019	29	30 October 2022
5	31 October 2019 to 30 October 2020	19 (as at 01/10/2020)	30 October 2023

¹ Planning Practice Guidance, Self-build and custom housebuilding, available here: <https://www.gov.uk/guidance/self-build-and-custom-housebuilding>

- 3.6 By 30 October 2019, the Council should have permissioned sufficient self-build plots to meet those on the register in Base Period 1. This was achieved as there were no entries on the register during this base period. By 30 October 2020, to meet its duty the Council should have permissioned sufficient self-build plots to meet those on the register in Base Period 2, i.e. 36 self-build plots.
- 3.7 Applications that have been granted Community Infrastructure Levy (CIL) self-build relief are considered to be a relevant permission in terms of meeting self-build demand on the register. Based on granted self-build CIL relief, the Council can demonstrate that it has met self-build demand in Base Period 2.

Local Eligibility Conditions

- 3.8 The Regulations allow local authorities to set local eligibility conditions. This can be a criterion whereby only individuals who have sufficient connection with the authority's area are eligible ("a local connection test"); and/or a criterion whereby only individuals who can demonstrate that they will have sufficient resources to purchase land for their own self-build and custom housebuilding are eligible.
- 3.9 Authorities who choose to set local eligibility conditions are required to have two parts to their register. Individuals or associations of individuals who apply for entry on the register and meet all the eligibility criteria including local eligibility conditions must be entered on Part 1. Those who meet all the eligibility criteria except for a local connection test must be entered on Part 2 of the register.
- 3.10 Entries on Part 1 of the register count towards the number of suitable serviced plots that the Council must grant development permission for. Entries on Part 2 do not count towards demand for the purpose of the Act but the Council must have regard to the entries on Part 2 when carrying out planning, housing, land disposal and regeneration functions.

Local Connection Test

- 3.11 Officers consider that a local connection test should be introduced. This will ensure that entrants on the Register have a genuine connection with the area and means that demand evidenced by the Register will be much more likely to be genuine rather than potentially one of many similar requests for entry onto registers in other areas.
- 3.12 The requirements of the local connection test are a matter for the Council to determine. Officers consider the following local connection test should apply, which all individuals (including associations of individuals) must satisfy in order to be eligible for entry on Part 1 of the Bromley Self-build and Custom Housebuilding Register:
- Individuals must have been resident in the borough for a continuous period of five years, up to and including the day of their application for entry in the register.
- 3.12 A five-year period reflects the local connection requirements of the Bromley Housing Allocation Scheme². Whilst this is not directly linked to the self-build test, it is considered a relevant proxy to inform the setting of the self-build local connection test.
- 3.13 The council will require evidence of residency in the borough, for example, through submission of utility bills, council tax statements and/or lease agreements, or any other information which demonstrates residency beyond doubt. The council will ask for further information where necessary; or refuse an application for entry onto Part 1 of the register due to lack of information

² Available here: https://www.bromley.gov.uk/download/downloads/id/6352/housing_allocation_scheme_2017.pdf

to demonstrate that the local connection test is met. For associations, information must be provided for each individual.

- 3.14 Persons in the service of the regular armed forces of the Crown, as defined by section 374 of the Armed Forces Act 2006, will be deemed to satisfy the 'local connection' test whilst in service and for a period of five years after leaving service. This is a requirement of the Regulations. The council will require evidence of current service, or evidence of past service including the date of leaving service, in order to determine self-build register applications from such persons.
- 3.15 It is proposed that the Council keeps under review the implementation of the local connections test and considers periodically reviewing its local eligibility criteria.

Financial Eligibility

- 3.16 The Regulations also allow Councils to set a financial eligibility criterion, to determine whether an individual or associations of individuals have sufficient resources to purchase land for their own self-build and custom housebuilding. This criterion can apply to Part 1 and Part 2 of the Register (unlike the local connection test which only applies to Part 1).
- 3.17 It can be very difficult to assess the cost of a plot/land for self-build or custom housebuilding, and to obtain the relevant proof of finance (which only proves that the applicant has sufficient financial resources at a certain point in time). Circumstances could have changed by the time a plot is available to purchase, both in terms of the cost of a plot and the individuals financial resources. Therefore, it is not considered appropriate/justified, at this time, to include a local eligibility condition relating to financial eligibility.

Fees

- 3.18 The Self-build and Custom Housebuilding (Time for Compliance and Fees) Regulations 2016 state that local authorities may charge a fee for a person to be entered onto the register; and thereafter, on an annual basis, to remain on that register irrespective of whether any fee was charged to be entered on the register.
- 3.19 Since the requirement to hold a self and custom housebuilding register was introduced, Government grant funding has been provided to cover the maintenance of the register. Therefore, the introduction of a fee for entry onto the Bromley register is not considered necessary at this stage. However, the resource implications of the register will be kept under review and a fee may be introduced at a later date if appropriate, e.g. if Government grant funding is withdrawn or the number of applications increases and places a greater strain on resources. The introduction of a fee would be subject to a further decision by the Development Control Committee.

Next steps

- 3.20 Following the introduction of a local connection test, it will apply to all future applications. Where there are any applications yet to be determined, officers will write to applicants to invite further information to address the local connection test requirements.
- 3.21 Regarding existing entrants on the register, officers will write to these individuals or associations of individuals in early 2021 to note the introduction of the local connection test and invite them to provide further information to address the local connection test, in order to remain on the register. This is consistent with the Regulations, which allows for the removal of an entry from the register if the authority considers that the individual (or in the case of an association, any member of the association) is no longer eligible for entry in the register.

3.22 Removal of entrants from the register does not affect the demand established from earlier base periods, which is outlined in Table 1.

4. POLICY IMPLICATIONS

4.1 The self-build and custom housebuilding register demonstrates the demand for self-build and custom housebuilding within the borough and should inform the Council's work on future housing need and supply to enable the borough to plan for this accordingly. Paragraph 61 of the National Planning Policy Framework (NPPF) applies to plan-making and states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to people wishing to commission or build their own homes, informed by self-build and custom housebuilding registers).

4.2 The requirements for preparing and maintaining the register are set out in legislation. Planning Practice Guidance (PPG) sets out some guidance on the operation of the Regulations. The PPG³ outlines the Government's expectation that local eligibility conditions are supported by strong justification; are proportionate and, in the case of any local connection test, is introduced in response to a recognised local issue. The proposed local connection test is considered justified and proportionate in line with the PPG, although it is noted that this is only guidance and the actual legislation governing self-build and custom housebuilding registers does not impose such restrictions.

4.3 The PPG also recommends that any local eligibility conditions are consulted on before their introduction and reviewed periodically to ensure that they remain appropriate and that they are still achieving the desired effect. No consultation is proposed on the proposed local connection test which this report recommends is introduced.

4.4 The Government recently consulted on the Planning for the Future White Paper⁴, which proposes significant reforms to the planning system. This includes a proposal that all land in the Borough is zoned into certain categories, with development potentially automatically permitted depending on which category land is classified in. The white paper makes reference to self-build, noting that "*local authorities should identify enough land to meet the requirements identified in their self-build and custom housebuilding registers*". This will potentially give the register a more prominent role, with a requirement to find specific sites for self-build. This would strengthen the need to ensure that demand on the register accurately reflects genuine local demand for self-build.

5. FINANCIAL IMPLICATIONS

5.1 The cost of maintaining the Register is met through the Planning Policy and Strategy budget. Government grant funding has been available since the introduction of the requirement to hold a register, which assists with the cost of maintaining the register.

6. LEGAL IMPLICATIONS

6.1 The Council has a duty under the Self-build and Custom Housebuilding Act 2015 and the Self-build and Custom Housebuilding (Register) Regulations 2016 to keep a register for people who are interested in a self-build or custom build home in the borough. In accordance with the Regulations, the Council are proposing to introduce a local connection criteria test. The local connection test will be kept under review and updated if required.

³ Ibid

⁴ Available here:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/907647/MHCLG-Planning-Consultation.pdf

Non-Applicable Sections:	IMPACT ON VULNERABLE ADULTS AND CHILDREN PERSONNEL IMPLICATIONS PROCUREMENT IMPLICATIONS
Background Documents: (Access via Contact Officer)	The Self-build and Custom Housebuilding Act 2015 https://www.legislation.gov.uk/ukpga/2015/17/contents/enacted/data.htm The Housing and Planning Act https://www.legislation.gov.uk/ukpga/2016/22/contents/enacted The Self-build and Custom Housebuilding Regulations 2016 https://www.legislation.gov.uk/uksi/2016/950/contents/made The Self-build and Custom Housebuilding (Time for Compliance and Fees) Regulations 2016 https://www.legislation.gov.uk/uksi/2016/1027/contents/made