

SELF-BUILD AND CUSTOM-BUILD HOUSING (CHARGING AND ELIGIBILITY) CRITERIA

Cabinet Member(s)	Councillor Keith Burrows Councillor Philip Corthorne
Cabinet Portfolio(s)	Planning and Transportation Housing and The Environment
Officer Contact(s)	Julia Johnson, Planning Policy, Residents Services
Papers with report	None.

HEADLINES

Summary	<p>The Self-build and Custom Housebuilding Act 2015 imposed a duty upon relevant authorities including London boroughs to maintain a register of individuals and associations of individuals who are seeking to acquire serviced plots of land in their area in order to build homes for their occupation. The Council is required to grant planning permission for enough self-build plots to meet demand as evidenced by their register.</p> <p>New regulations on Self-build and Custom Housebuilding published in October 2016 enabled local authorities to set local eligibility requirements (in addition to the general national requirements) and to charge a fee for entries on to the Self-build and Custom Housebuilding register and an annual fee to remain on the register.</p> <p>This report seeks approval to agree to the setting of local eligibility criteria and the introduction of fees for entry and retention on Hillingdon's Self-build and Custom Housebuilding register. The local eligibility criteria proposed include requirements for evidence of a minimum residency of 10 years in the Borough prior to the date of application and evidence of sufficient resources to purchase a self-build plot of land in the Borough. Applicants would be required to satisfy these new criteria in order to be eligible for entry on to Part 1 of the register.</p>
Putting our Residents First	<p>This report supports the following Council objectives of: <i>Our Built Environment</i> through ensuring the delivery of new homes that meet the needs of existing Borough residents. The delivery of new homes is supported by the Hillingdon Local Plan Parts and 2.</p>

Financial Cost	There are no direct financial implications outside existing internal resources
Relevant Policy Overview Committee	Residents, Education and Environmental Services Policy and Overview Committee
Relevant Ward(s)	All Wards

RECOMMENDATIONS

That the Cabinet:

1. Approve the principle of introducing local eligibility criteria so that Hillingdon's Self-build and Custom Build Register can be split into two parts.
2. Notes that an Equalities Impact Assessment will be carried out into the Council's proposed local eligibility criteria and therefore approves a public consultation to be carried out on the following local eligibility criteria for joining Part 1 of the Register:
 - a. Residency in the Borough for at least 10 years prior to the date of application; or
 - b. In the service of the regular armed forces or have served in the armed forces within the previous 3 years prior to the date of application.
 - c. Able to provide evidence of access to sufficient resources to purchase land of at least £225,000.and
 - d. For associations of individuals wishing to be added to the Hillingdon Self-build and Custom build Register, at least three-quarters of the members of the association must meet the local connection criteria above and be able to demonstrate that the association collectively has sufficient financial resources to purchase a plot large enough to accommodate its members.
3. Approve public consultation on the national eligibility criteria for Part 2 of the Register, which requires the applicant to be:
 - a. Over 18 years old; and
 - b. A British Citizen or national of an EEA State *; and
 - c. Seeking to acquire a serviced plot of land to build a house to occupy as a sole or main residence.
4. Approve public consultation on the introduction of fees for joining each part of the register as follows:

- a. **Fee for Part 1 of the register: £90 for entry and an annual retention fee of £30.**
- b. **Fee for Part 2 of the register: £45 (no annual retention fee).**

5. The outcome of the public consultation together with a full Equalities Impact Assessment to be reported back to Cabinet for consideration prior to any changes being made to current practice.

**This would only continue to apply in accordance with future legislative provisions implemented at the end of the Brexit transition period.*

Reasons for recommendation

To ensure that the Self-build and Custom housebuilding Register better reflects local demand for land for custom and self-build housing, and to assist the Council in better meeting its obligations under the Self-build and Custom Housebuilding Act 2015.

Alternative options considered / risk management

The option exists to not introduce a two-part register and keep the register as it is. The level of demand for self-build and custom housebuilding in the Borough is, however, determined by the number of entries on the register. The report demonstrates that the current register is likely to overestimate local demand as individuals and organisations without a local connection can sign up to be included on the register. Given the high demand for self-build plots and limited availability of land, the Council needs to prioritise individuals with the strongest connections to the area, as allowed under the Act. An overestimation of demand could result in the Council having to grant planning permission for self-build and custom build housing on more sites than actual local demand requires. This would have subsequent implications for the Council's ability to meet its housing targets, which are due to increase once the new London Plan is agreed and published.

The option of not including a financial test to ensure individuals/organisations had sufficient funds to purchase a self-build/custom build plot was considered, however, by not including a financial test, it is unknown whether plots granted planning permission are actually deliverable. This too could then result in an overestimation of actionable demand which could result in the Council having to grant planning permission for self-build and custom build housing on more sites than required.

Options also exist over the specific criteria to implement for inclusion into the self-build and custom housebuilding register. These include the number of years to have been living in the Borough to be included in the register, whether to include the employment in the Borough as a local connection criteria, the number of years of continuous employment in the Borough to be included in the register, and the fee required to be included in the register. A preferred option based on the Council's existing social housing allocations policy is included in this report. The proposed public consultation will also allow for the opportunity to take into account feedback on Council's preferred options and for Cabinet's decision to be informed by a full Equalities Impact Assessment.

Policy Overview Committee comments

None at this stage.

SUPPORTING INFORMATION

Background

1. The Self-Build and Custom Housebuilding Act 2015 imposed a duty on the Council to maintain a register of individuals and associations of individuals who are seeking to acquire serviced plots of land in their area in order to build homes for their occupation. The Planning Policy Team have maintained both the Council's self-build webpage and register to date.

2. The Self Building and Custom Building (Time for Compliance and Fees) Regulation 2016 enable local authorities to set local eligibility requirements (in addition to the general requirements) and to charge a fee for entries on to the Custom and Self-Build Register (and an annual fee to remain on the register) to cover the cost of the administration involved in checking evidence submitted by potential entrants and maintaining the register. Local authorities that set local eligibility criteria must divide their register in two parts with Part 1 including entries that meet local requirements and Part 2 for those who meet nationally applicable eligibility criteria.

3. The Act places a 'duty to grant planning permission' on relevant authorities, whereby entries on Part 1 of the Register are counted towards the number of suitable serviced plots that must be granted permission for. Accordingly, it is a requirement that following each annual base period of 12 months, relevant authorities have three years in which to grant permission for an equivalent number of plots of land for self-build homes as there are entries to Part 1 of the Register for that base period.

4. In maintaining its register, the Council makes no commitment to provide those on the register with plots of land for self-build and custom housebuilding. Applications for self-build and custom housebuilding projects will continue to require planning applications and will be assessed on their merits in line with Hillingdon's planning policies and guidance.

5. Entries onto the Council's register to date have been assessed against the eligibility criteria set out by the Self-build and Custom Housebuilding (Register) Regulations 2016 published by the Government in February 2016, which required applicants to be:

- Over 18;
- A British citizen or national of an European Economic Area State or of Switzerland (where this would only continue to apply in accordance with future legislative provisions implemented at the end of the Brexit transition period); and
- Seeking to acquire a plot for use as sole/main residence.

The February 2016 Regulations did not require applicants to provide proof that they met these criteria. These Regulations have since been superseded by updated Regulations which give planning authorities more discretion.

6. The October 2016 Self-build and Custom Housebuilding (Time for Compliance and Fees) Regulations 2016 have given powers to local authorities to set eligibility requirements for those wanting to be entered onto the register. This enables local authorities to:

- Charge a fee for entries on to the self-build and custom housebuilding register (and charge an annual fee to remain on the register) to cover the cost of the administration involved in compiling and maintaining the register;

- Set a local connection test (any local eligibility test will be deemed to be satisfied if the individual is in the service of the regular armed forces of the Crown and for a period after leaving service); and
- Set a requirement to provide evidence of sufficient resources to purchase land for self-build and custom housebuilding.

7. The October 2016 Regulations prescribe that local authorities who set up local eligibility criteria must divide their self-build and custom build register in two parts, with Part 1 of the register including all entries meeting all eligibility requirements set by the relevant local authority and Part 2 for those entries which meet all nationally applicable eligibility criteria, plus the sufficient resources test.

8. The total number of entries on Part 1 of the register will be the baseline demand against which the local planning authority must have regard to when considering planning applications for the self-build and custom housebuilding projects. Entries on Part 2 do not count towards demand for the purpose of the 2015 Act but local authorities must have regard to Part 2 of the register when carrying out their planning, housing, land disposal and regeneration functions.

9. It should be noted that in respect of the local connection test, there is a specific exemption in the October 2016 Regulations for persons serving in the armed forces of the Crown. Persons meeting such an exemption will be deemed to meet the local connection test.

Hillingdon's Current Register

10. Hillingdon's self-build and custom housebuilding register has grown at a relatively stable rate over the last three and a half years but now includes 233 entries (1 April 2020). Local planning authorities are required to grant enough planning permissions to provide self-build and custom housebuilding plots to meet the demand as indicated by the register. The level of demand is established by reference to the number of entries added to Part 1 of an authority's register during a base period (running yearly with end on 30 October). At the end of each base period, the local planning authority has three years in which to approve an equivalent number of plots of land which are suitable for self-build and custom housebuilding equal to the number of entries for that base period. For the London Borough of Hillingdon each base period looks as follows:

End Baseline Period	Entries	Date for Granting Equivalent Permissions	Planning Permissions Granted
30 th Oct 2016	38	30 th Oct 2019	10
30 th Oct 2017	67	30 th Oct 2020	5
30 th Oct 2018	44	30 th Oct 2021	1
30 th Oct 2019	50	30 th Oct 2022	1
30 th Oct 2020	34*	30 th Oct 2023	N/A
TOTAL	233		

*This period is ongoing

11. This table shows that there is a shortfall between the number of entries on Hillingdon's register and the number of relevant planning permissions granted. Consequently, the Council is not currently able to meet its duty to grant planning permission for enough suitable plots of land to meet the demand for self-build and custom housebuilding in its area. If the London Borough of Hillingdon's shortfall is not addressed, there is the potential that undesirable development will be approved on appeal, as has been shown already within other planning authorities, where Inspectors have concluded that harm arising from a development is outweighed by the significant shortfall in supply. This could include permission being granted on Greenfield sites.

12. Analysis of the Council's current register has shown that only two thirds of those included are currently registered in Hillingdon with the remaining third coming from other London boroughs and the wider South East. It is also unclear how many of the individuals that joined the Hillingdon Self-build and Custom Housebuilding register have joined the register of other local authorities as there is no restriction on how many registers applicants are able to join.

Current resident Local Authority Area	Number	Percentage (rounded to nearest whole number)
Hillingdon	153	66%
Ealing	11	5%
Harrow	13	5%
Slough	8	3%
South Bucks	3	1%
Hounslow	4	1%
Three Rivers	3	1%
Other London boroughs	24	10%
Wider South East	14	6%
TOTAL	233	

13. Any overestimation of the local demand for self-build and custom build homes could result in more land being used for self-build and custom build than is required. This would have subsequent implications on the Council's ability to meet its housing targets, and may affect affordable housing delivery, as self and custom-build homes are exempt from requirements to contribute to affordable housing. It is, therefore, important that additional steps are taken to ensure that Hillingdon's register accurately reflects genuine local demand. A two part register as allowed for under the October 2016 Regulations is therefore proposed. This will allow for the introduction of a local connection test as well as other requirements to demonstrate that entrants have the resources necessary for self-building within Hillingdon.

Surrounding Local Authorities

14. A number of other local planning authorities have already introduced eligibility criteria, and in some cases a registration fee, to reduce the number of people on their custom and self build register. In London this includes Harrow, Wandsworth, Westminster, Islington and Camden. A table summarising the criteria used by the other west/central London boroughs and surrounding districts for applicants to be placed on Part 1 of each authority's self build register is set out below:

Borough/ District	Registration Fee	Local Connection Test	Minimum Financial Resources
Barnet	N/A	N/A	N/A
Brent	N/A	N/A	N/A
Camden	£350	Resident for 5 of the past 7 years	£360,000
Ealing	N/A	N/A	N/A
Hammersmith and Fulham	N/A	N/A	N/A
Harrow	£100	Resident for 2 of the last 3 years, 3 years continuous employment in Harrow or armed services	£250,000
Hounslow	N/A	N/A	N/A
Wandsworth	No	2 years continuous residency	£350,000
Westminster	£95	Lived or worked in Westminster for at least 12 months	N/A
Spelthorne	N/A	N/A	N/A
Slough	N/A	N/A	N/A
Three Rivers	N/A	N/A	N/A
South Bucks	N/A	Lived or worked in the Borough for 2 years or armed services	N/A
Chiltern	N/A	Lived or worked in the Borough for 2 years or armed services	N/A

Proposed Changes to Hillingdon's Self-build and Custom Housebuilding Register

15. As explained previously, the Self Building and Custom Housebuilding (Time for Compliance and Fees) Regulations 2016 have given greater discretion to local authorities to set eligibility requirements for their registers. The regulations allow for:

- charging a fee for entries on to the register (and annual fee to remain on the register) to cover the cost of the administration involved.
- the setting of a local connection test (any local eligibility test will be deemed to be satisfied if the individual is in the service of the regular armed forces of the Crown and for a period after leaving service).
- set a requirement to provide evidence of sufficient resources to purchase land for self-build and custom housing.

16. Local authorities who set up local eligibility criteria must divide their self-build register into two parts. Part 1 of the register will only include those entries meeting all of the eligibility requirements set by the Council and Part 2 will include those entries which meet the nationally applicable standards. The total number of entries on Part 1 of the register will be the baseline demand for plots for which need must be met within three years.

17. The Regulations do not include any detailed requirements in terms of the process for introducing eligibility requirements however; the accompanying government guidance does set an expectation that relevant authorities should only introduce such tests where they have a strong justification for doing so and ensure that they are proportionate. Although there is no statutory requirement to consult, the Guidance recommends that consultation be carried out. Further, because of the fundamental changes being proposed to Hillingdon's existing eligibility criteria and because the proposed local connection test differs from that of other authorities, it is considered that consultation should take place on the Council's proposals. Furthermore, given the COVID-19 emergency, it is proposed that a minimum 6 week period is allowed for this consultation in order to give sufficient opportunity for all interested parties to participate. The Consultation will be accompanied by an initial Equalities Impact Assessment and when consultation responses are considered by Cabinet a full Equalities Impact Assessment will also be provided for Cabinet's consideration.

18. It is therefore, proposed that Hillingdon should set up a two part register and consult on the following fees and eligibility requirements:

Local connection requirements

19. There is no detailed guidance in the Regulations on how the minimum residency period should be set. However, on the basis that the Council's existing social housing allocation policy sets a minimum period of ten years for establishing a local connection, it is proposed to align with this requirement for setting the minimum residency period for entry onto Hillingdon's self-build and custom housebuilding register. It is noted that this ten year period is greater than that being used by other surrounding planning authorities. However, it is also intended to ensure that those looking to self-build or custom build within the Borough have a strong local connection and there is no incentive to relocate to Hillingdon from other parts of London and put undue pressure on the availability of land for housing given the specific need to allocate land to meet the need of all those on the Part 2 register. This issue is of particular concern given that self-build and custom build homes are typically constructed at lower densities than commercial housebuilders i.e. they are not usually flatted developments, and this could reduce the Borough's capacity to meet its housing targets on existing brownfield sites in the context of increasing housing targets.

20. In accordance with the Regulations, there will be a specific exemption for entry on to the register for persons serving in the armed forces of the Crown. It is proposed that individuals currently in the service of the regular armed forces or have served in the armed forces within the previous 3 years prior to the date of application would meet such an exemption and will be deemed to meet the local connection test.

21. For associations of individuals wishing to be added to the Hillingdon's register, at least three-quarters of the members of the association must meet the local connection criteria above in order to be added to Part 1 of the register.

Evidence of sufficient resources

22. It is recommended that evidence of sufficient resources to purchase a plot of land in Hillingdon forms part of the local eligibility tests to ensure that those registering have the resources to build their own home.

23. The proposed minimum level of financial resources required to join the Self and Custom Housebuilding Register is based on residential land value estimates for the London Borough of Hillingdon. The estimates are derived from a May 2017 report published by the Ministry of Housing, Communities and Local Government (MHCLG) titled 'Land Value Estimates for Policy Appraisal' (see Background Papers).

24. The May 2017 Land Value Estimates for Policy Appraisal indicated that the London Borough of Hillingdon had an average residential land value of £16,600,000 per hectare, or £1,660 per square metre in 2017. The Council has assumed a self-build plot size of 150 square metres per plot (as a suitable mid-point between the mix of smaller and larger sites across the Borough), which means the average self-build plot would cost £249,000 to purchase. This does not include costs to then develop the site and construct a dwelling. To allow for fluctuations in land values in the short term, and to allow for local variations in residential land values in different areas of Hillingdon, it is considered that the minimum requirement to demonstrate sufficient resources should be set at 10% below (rounded to the nearest £5,000) the self-build plot value of £249,000. This would therefore require applicants to demonstrate that they have a minimum of £225,000 available, either through savings or a loan agreement, to purchase a self-build plot and meet this criterion before they could be added to the Register. It is proposed that the average residential land value in Hillingdon is reviewed on an annual basis and the minimum financial resources required adjusted accordingly to reflect this. It is proposed that the approval of any such changes are delegated to the Head of Planning in consultation with the Cabinet Member for Planning and Transportation.

25. For associations of individuals, applicants must be able to demonstrate that the association collectively has sufficient financial resources to purchase a plot large enough to accommodate its members, in order to be added to Part 1 of the register.

Fee requirements

26. It is proposed a fee is charged for entry onto the register to cover the costs of officer time required to verify that individuals meet the local eligibility tests. Additional time will be required to undertake activities relating to the register if local eligibility criteria are introduced – namely proof of age, nationality, local connection and evidence of sufficient available funds. Officers will also be required to undertake relevant correspondence and carry out a yearly review of all existing entries against all eligibility criteria. On the basis that it would take a Planning Officer approximately three hours to undertake the work required for each Part 1 application, a registration fee of £90 is proposed, this has then been halved to £45 for Part 2 of the register to reflect the reduced number of checks required. An additional fee of £30 would then apply to the annual checks required to ensure that eligibility to remain on Part 1 of the register is retained.

Next Steps

27. It is proposed that a 6 week public consultation is undertaken on the Council's proposed eligibility criteria. As part of this process, it is proposed that everyone currently on Hillingdon's Self-build and Custom Build Register is contacted and invited to comment on the introduction of the two-part register. The Consultation Document and accompanying Equalities Impact Assessment will also be published on the Council's website.

28. Following the conclusion of the public consultation, the responses will be reviewed and taken in account before confirming the final criteria for approval by Cabinet.

Financial Implications

29. The LBH charging policy of 90% of the three neighbouring boroughs has been applied to this proposed fee. Whilst Ealing and Hounslow do not levy a charge for the Self-build and Custom Build Register, Harrow is currently charging £100 and so the proposed fee is 90% of the fee charged by Harrow. A summary of the proposed fees is detailed in the table below.

Fee Description	Proposed Fee
Part 1 of the register - Entry Fee	£90
Part 1 of the register - Annual Retention Fee	£30
Part 2 of the register	£45

Any costs associated with the public consultation on the introduction of the proposed fees will be managed within existing revenue budgets.

RESIDENT BENEFIT & CONSULTATION

The benefit or impact upon Hillingdon residents, service users and communities?

30. The proposals put forward in this report are intended to ensure that Hillingdon's residents are prioritised for the Self-build and Custom Build Register. Ensuring that all entries meet the required eligibility criteria (and in respect of Part 1 the local connection criteria) together with applying entry and yearly maintenance fees will help the Council to better identify what is the true requirement for self-build and custom build plots in Hillingdon and guide new relevant policies as appropriate.

31. Initial considerations to equality suggest that there may be a potentially negative impact of the 10 year local connection requirements on people from Romany Gypsy and Irish Traveller backgrounds, who would be less likely to be able to meet this criteria. A full equality assessment will be carried out as part of the consultation process.

Consultation carried out or required

32. The proposed public consultation will give those on the existing register as well as other interested parties the opportunity to provide feedback into the proposed criteria which will be taken into account prior to the formal decision by Cabinet on their adoption later this year.

CORPORATE CONSIDERATIONS

Corporate Finance

Corporate Finance has reviewed the report and concur with the Financial Implications set out above, noting that there are no financial implications arising from the report recommendations.

Legal

The Borough Solicitor confirms that the legal implications are to a large extent included in the body of the report. Equality Impact Assessments will be carried out to demonstrate that the Council has complied with its Public Sector Equality Duty pursuant to section 149 of the Equality Act 2010 and further legal advice will be provided to Cabinet as necessary when it is asked to consider the outcome of the public consultation.

BACKGROUND PAPERS

May 2017 report published by the Ministry of Housing, Communities and Local Government (MHCLG) titled 'Land Value Estimates for Policy Appraisal'. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/710539/Land_Values_2017.pdf