

TONBRIDGE & MALLING BOROUGH COUNCIL
PLANNING and TRANSPORTATION ADVISORY BOARD

18 November 2014

**Report of the Director of the Director of Planning, Housing and Environmental
Health**

Part 1- Public

**Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken
by the Cabinet Member)**

**1 PROPOSED RESPONSE TO THE DCLG'S 'RIGHT TO BUILD: SUPPORTING
CUSTOM AND SELF BUILD' CONSULTATION (OCTOBER 2014)**

Summary: This report summarises the consultation document published by the Government on 23rd October, highlights some of the issues and proposes a response on behalf of the Borough Council. The deadline for comments is the 18th December 2014.

1.1 Introduction and Background

- 1.1.1 Members may recall that the Government made announcements in the Budget Statement earlier this year and then followed this up with proposed legislation in the Queen's Speech to introduce a new 'Right to Build', which is intended to promote and facilitate the custom building of new homes.
- 1.1.2 Custom build housing is housing commissioned and built by individuals or groups of individuals for their own use, either by building the home on their own or working with builders. The Government wants to unlock the growth potential of the custom homes market and double its size over the next decade by creating up to 100,000 additional custom built homes in England. Some financial assistance has already been introduced to improve access to development finance.
- 1.1.3 The current consultation and proposed legislation is aimed at removing the two other perceived barriers facing custom builders, namely finding access to suitable plots of land to build on and, what the consultation document refers to as '...the hurdles and frustrations that many custom builders face when they engage with the regulatory regimes that govern the development process'.
- 1.1.4 There is currently a Private Member's Bill in Parliament which seeks to introduce a new requirement on Local Planning Authorities to assess the demand for custom build in their areas and set up a register of expressions of interest (Richard Bacon MP's 'Self-Build and Custom Housebuilding Bill').

- 1.1.5 The next step, which would require primary legislation (expected to be introduced during the next Parliament), would require Local Planning Authorities to respond to the demand for custom build in their areas by making available suitable, serviced plots of land with planning permission to those who are eligible and on the register. There would also be a requirement to reflect this in Local Plans as part of the assessments housing need and 5 year supply together with policies that will facilitate the delivery of suitable plots to meet that demand.
- 1.1.6 There are already references in the National Planning Policy Framework (NPPF) and the Planning Practice Guidance (PPG) that encourage Local Planning Authorities to identify and plan for the needs of custom builders, but these legislative changes would make this a statutory requirement, which could have important resource implications for Local Authorities.
- 1.1.7 Some Authorities have already been proactively encouraging the custom build sector in their areas and in September eleven 'Vanguard Right to Build' Authorities were appointed by the Government to see how the proposals could operate in practice.

1.2 Summary of the Proposals

1.2.1 As proposed the Right to Build would comprise the following:

- Prospective custom builders would be entitled to apply to the Local Planning Authority for a suitable, serviced plot of land on which to build or commission the building of their own home.
- The application would be checked by the Local Planning Authority for eligibility and then recorded on a custom build register for the area.
- Demand for custom build would be taken into account in preparing Local Plans to ensure that there are policies and possibly allocations in place to bring forward sufficient plots to meet demand.
- Those registered would be offered suitable plots with some form of planning permission and servicing for sale at market value.

1.2.2 The application stage could also be used to identify the custom builder's preferences for location, size of plot and the sort of dwelling being proposed. There would be no guarantee that all of these preferences will be met and the Government makes clear that national planning policies, such as Green Belt, will still apply, but it is implied that LPAs should take these into account when acquiring and offering plots. The Government is considering ways in which the LPA can demonstrate that it has discharged its duty in circumstances where custom builders reject plots offered to them. It is proposed that if 3 different offers are rejected then the LPA will no longer be required to make further offers.

- 1.2.3 Eligibility criteria for applying to go on the register have been proposed by the Government. Currently these are that applicants should be over 18 and be a European Economic Area Citizen who can demonstrate a local connection. They must be able to show financial viability (i.e. that they have the means to build their own home) and prove that the dwelling would be their main residence (i.e. not for rental or a 2nd home).
- 1.2.4 The local connection criteria may be a contentious issue, since the Government suggests in the consultation document that this could be as simple as providing evidence of 12 months residency in an area or proof of a local family connection. Armed Forces personnel would be exempt from the local connection test.
- 1.2.5 Some of the Vanguard areas are using more stringent tests for a local connection, for example, Shropshire require applicants to meet at least two of the following requirements:
- Having a permanent residence in the area;
 - Attending school in the area for at least 5 years continuously as a child;
 - Living in the area continuously for 15 years as an adult;
 - Currently employed in the area;
 - An active community involvement for the previous 2 years.
- 1.2.6 There may be some flexibility for Local Authorities in determining a local connection depending on the responses to the consultation and the feedback from the Vanguard areas.
- 1.2.7 Once the register is agreed, Local Planning Authorities will be required to plan for and make available suitable, serviced plots, that are acceptable for housing development (i.e. with some form of planning permission already in place) to those on the register within a reasonable timeframe.
- 1.2.8 This would represent a major change to the roles and responsibilities of Local Planning Authorities. Although the document says that LPAs will be given 'significant discretion' about how they secure and allocate plots the options currently suggested include:
- Disposing of land holdings already in the ownership of the local Authority;
 - Buying land using their own resources; or
 - Using Section 106 agreements to secure land, possibly as part of a large development site.
- 1.2.9 This would fundamentally change the way Local Planning Authorities operate requiring new skills to be bought in from other parts of the Local Authority or from

outside to procure land and manage the process, ensuring services are laid to the boundary of each plot (water, waste water, electricity, gas and possibly telecommunications access), obtaining planning permission (possibly through a Local Development Order) and selling the land to custom builders.

- 1.2.10 The document acknowledges that there will be a requirement for new skills for these roles, or as an alternative, Local Planning Authorities could manage a commercial relationship with private developers or business partners to deliver the plots on the Council's behalf.
- 1.2.11 The Local Authority would be able to charge market value for the plot to the custom builder at the end of the process, but there is no indication whether any of the other costs, including the administration of the register, procuring the land, ensuring services are laid on, obtaining planning permissions and conveyancing, either in-house or via a third party, will be subsidised by the Government. The intention is for the register to be made available free of charge to the prospective custom builders at least initially, although there may be scope for charging an administration fee when the registers are well established.
- 1.2.12 Although custom build is normally considered to be market housing and indeed one of the eligibility criteria is the financial ability to build your own house, the Government wishes to design the Right to Build in a way that would enable LPAs to deliver affordable housing through the custom build route. This could involve allocating custom build sites in Local Plans with an element of affordable housing.
- 1.2.13 Registered Providers could also play an important role by bringing sites to market and by providing support to those prospective custom builders who are eligible for affordable housing by making a joint application to be added to the register.

1.3 Implications for the Borough

- 1.3.1 If the Government's proposals are realised in full there will be new roles and responsibilities to accommodate. Initially this will involve assessing the demand for custom build and setting up a register. This is likely to be introduced during this Parliamentary session if the Private Member's Bill is passed.
- 1.3.2 This could be accommodated with in-house resources, but there will be a cost in staff time. It is not clear at this stage whether Planning Practice Guidance will be amended to ensure SHMAs and SHLAAs reflect the register in assessments of housing need and housing supply. This too could have a cost implication.
- 1.3.3 The more significant impacts will be dependent on the proposed new statutory requirements and this will depend on a future administration introducing primary legislation. The details of what the Right to Build might look like in practice will be informed by the current consultation responses and the experiences of the 11 Vanguard, but if the Right to Build is adopted as the current Government

anticipates there could be significant resource implications for Local Authorities, depending on the level of demand from prospective custom builders.

- 1.3.4 The Strategic Housing Market Assessment prepared by G L Hearn and Partners earlier this year included a section on custom build. It concluded that it was difficult to demonstrate concrete evidence of demand at a local level stating that:

‘There is growing interest in the self-build market, however there are notable barriers including securing land, savings, mortgage finance and those associated with managing development and risk. In policy terms there is some potential to encourage through policy developers of larger schemes to designate parts of these schemes as serviced plots which can be developed as self-build. To provide evidence of demand there is potential for local authorities to develop and maintain registers of people who have an interest in self-build.’ (Tonbridge and Malling SHMA (March 2014) paragraph 9.85)).

- 1.3.5 Since the Government’s Budget Statement, the Queen’s Speech and the media coverage around these events officers have received a number of general enquiries from custom builders, so it is likely that there will be a healthy interest locally. The Self Build Portal, established by the Government to help custom builders access information and share examples of good practice includes a map where prospective custom builders can post where they would like to build, so that land owners can potentially get in touch. There are currently 6 entries in Tonbridge and Malling.
- 1.3.6 As west Kent is considered to be a desirable place to live, its proximity to London and relatively high house prices, custom builders may find the prospect of being able to secure a suitable plot from the Local Planning Authority as an attractive proposition.
- 1.3.7 However, for the same reasons, the Council would find it difficult and costly to procure suitable sites to meet this demand. Custom builders would be required to pay market value for the plots at the end of the process, but there would be an initial outlay in finding and buying land, providing services and securing planning permission together with the administrative costs of assessing demand and establishing and managing the register. It is not clear from the consultation whether there would be funding available to Local Authorities to offset these costs.

1.4 Suggested Response

- 1.4.1 A detailed response to the 35 questions posed by the consultation is attached at Annex 1. The covering letter will pick up on the concerns expressed above including the potential resource and cost implications for Local Planning Authorities and the impact this may have on the Local Plan evidence base and timetable.

1.5 Conclusion

- 1.5.1 This report summarises the proposals for introducing the Government's Right to Build, highlights some concerns and proposes responses.

1.6 Legal Implications

- 1.6.1 While there are no legal implications arising directly from this report, the Right to Build if successfully introduced through primary legislation would place new requirements on Local Planning Authorities.

1.7 Financial and Value for Money Considerations

- 1.7.1 Potentially the Right to Build could have significant cost and resource implications for the Borough Council.

1.8 Risk Assessment

- 1.8.1 The risk of not responding to this consultation is that the concerns expressed will not be taken into account by the Government.

1.9 Equality Impact Assessment

- 1.9.1 See 'Screening for equality impacts' table at end of report

1.10 Recommendations

- 1.10.1 That Members note the summary of the consultation document and the potential implications for the Borough Council of the proposed Right to Build legislation; and
- 1.10.2 Endorse the suggested responses in the report and Annex 1.

The Director of Planning, Housing and Environmental Health confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

Background papers:

contact: Ian Bailey

Nil

Steve Humphrey

Director of Planning, Housing and Environmental Health

Screening for equality impacts:		
Question	Answer	Explanation of impacts
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against	No	This is a response to a Government consultation. No changes have yet been approved.

Screening for equality impacts:		
Question	Answer	Explanation of impacts
different groups in the community?		
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	No	This is a response to a Government consultation. No changes have yet been approved.
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		N/A

In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.