

Annex 1: Right To Build Consultation – Questions and Answers

1. Q: If you are a prospective custom builder, would you be interested in using the new Right to Build?

Not Applicable

2. Q: How can local planning authorities work together to enable the Right to Build to apply in London, National Parks and the Broads and areas with development corporations?

Not Applicable

3. Q: What preferences should custom builders be able to express on the register? Are there any preferences which are essential for all local planning authorities to consider?

The two suggested in paragraph 22 are sensible (general location and price range), but the latter will only really be informed by asking the size of plot or size of dwelling. On the Self Build Portal 'Need-a-Plot' page, the other preference that seems to be commonly expressed is whether a solo or group plot is sought. Perhaps this should be added?

4. Q: To what extent should a local planning authority be expected to meet these essential preferences?

This is a far more important question and relates to how much discretion the LPA should have in making plots available and at what point a LPA could be considered to have discharged its duty (for example the three offers refused suggestion). Given the considerable challenges that some LPAs will face to find suitable plots and the potential for legal action to be taken if LPAs fail in their duty, this is critical.

5. Q: Are these the right eligibility criteria for the register? What are the practicalities for local planning authorities in assessing against these criteria?

The four proposed criteria are key determinants, although it will be the detailed tests that are important. I note for example that the case study into local connection (Shropshire) is far more stringent than that suggested by para 33, which gives an example residency as a minimum of 12 months.

There is no eligibility criteria proposed for the dwelling that is proposed. Type of dwelling is suggested as a possible preference, but there is no requirement to state what sort of dwelling is being sought. Would a tourer caravan, mobile home or a more permanent form of either of these be considered custom build within the terms of the Right?

6. Q: Do you agree that local planning authorities should have the discretion to apply a local connection test and, if so, why?

Yes. Without a local connection test there would be nothing to prevent someone applying to go on the register, building their property and then selling up, moving on to another LPA and so on. For those areas in the south east where significant profits could be made, this could result in significant demand and therefore costs on LPAs.

7. Q: In what ways do you think a prospective custom builder should be able to demonstrate that they have a local connection, for example through residency or a family connection?

These should be similar to those used in respect of Travellers. Anything more or less could be considered to be an inconsistent approach.

8. Q: How long do you think a prospective custom builder needs to be resident in an area before they satisfy the local connection test? Should temporary periods outside the area be permitted?

See answer to Q7.

9. Q: How do you think family should be defined for the purposes of establishing a local connection?

See answer to Q7.

10. Q: Do you agree that members of the armed forces should be exempt from any local connection criteria? Are there any other groups we should exempt from this requirement where it applies?

Members of the armed forces should be exempt from the residency criteria as they may have been posted out of an area, but the family connection should remain.

11. Q: Are the proposed criteria for removing a person from the register appropriate? What are the practicalities facing local planning authorities?

The proposed criteria are satisfactory, subject to any others emerging from the Vanguard Authorities experience.

12. Q: Do you agree with the proposals on transparency?

Yes.

13. Q: How should local planning authorities publicise the register?

Using the Council website where appropriate and possibly having a link to the Self Build Portal.

14. Q: Do you agree that there is sufficiently robust planning policy and supporting guidance in place to promote custom build?

There is a satisfactory, discretionary framework in place at the moment to support custom builders, which places the onus of finding, servicing and acquiring a suitable site and then gaining planning permission on the applicant. Introducing the Right to Build as a statutory requirement on Local Planning Authorities will have considerable resource implications which will reduce those authorities capacity for preparing Local Plans and managing development.

15. Q: If not, what more would you like to see?

See Q 14.

16. Q: Should local planning authorities have discretion in which approaches they use? Are there alternative approaches which should be considered?

LPAs should have significant discretion and flexibility as the Right to Build is unlikely to represent a 'one size fits all' approach.

17. Q: What tools and support will local planning authorities need to develop these approaches?

This will be clearer once the Vikings have reported back.

18. Q: Do you agree that water and energy services should be provided as a minimum? Should telecommunications access be required?

Yes, although this should be reflected in the price of the plot that Council's can recoup at the end of the process.

Telecommunications access is considerably more expensive to retro-fit to new developments, so every opportunity to put in this important infrastructure should be made, again subject to being able to recoup the cost.

19. Q: Are there circumstances when a local planning authority should not be required to service the plot?

Where plots have been negotiated through a S106 as part of a larger development, services should be included in the agreement.

There may be other situations where services are available or nearby, but in need of upgrading or perhaps are not to the standard the custom builder wants. It would be useful for LPAs to know what minimum standard of services would be acceptable and/or to what extent upgrades could be recharged as part of the sale of the plot.

20. Q: How could we expand or change these principles to ensure we provide a fair national framework?

Again the experience of the Vikings can feed into this discussion.

21. Q: Is three the right number of minimum offers a local planning authority should be asked to make before they can consider the requirement to be met?

Again for consistency a similar approach to offers for social housing for those on the Housing Register should be applied here.

22. Q: Is two and half years the right time period in which authorities should reasonably be expected to make three reasonable offers in?

Two and half years seems to be an odd choice of time threshold. Three years would seem more appropriate.

In more general terms the time period over which offers should be made will be an important consideration in setting out the details for the Right to Build. One of the most practical ways for LPAs to offer plots will be through larger housing development sites allocating some land for custom build, possibly through a Section 106 agreement, but this will take time to bring forward plots. If Councils are required to offer suitable plots within a short time frame, and assuming they do not have land in their ownership that is suitable and available, the only realistic option will be to procure land for this purpose, which will take time.

23. Q: Should there be an appeals mechanism to enable custom builders to challenge the plot price?

It is unclear from paragraph 58 what is meant by fixed prices for plots. If it is intended that one price is to be offered for all plots in an area that seems to limit the Council's ability to recoup costs of providing services (some will be cheaper than others) and for different sizes of plots. It also does not allow for different land prices by location.

If however the true cost of the plot is reflected in the price and there is to be transparency, there should not be a need for an appeal system.

24. Q: If you wanted to access a plot through the Right what approaches do you think would be appropriate and in what circumstances?

As suggested at paragraph 58, this will depend on the level of demand for custom build and the ability of the LPA to bring forward plots. Some form of allocation scheme would seem appropriate.

If, as you suggest in section 5, some of those on the register are in need of affordable housing in partnership with a Registered Provider, there may be a case for prioritisation, but it will depend on the LPA and the local circumstances.

25. Q: If you were an authority administering the Right which approaches do you think would work for you?

26. Q: Will these approaches (including a combination of approaches) work? What other approaches are there?

It is too early to say.

27. Q: What support or changes local authorities would need to enable them to purchase and prepare land?

Financial assistance to purchase land and service plots to meet the proposed duty. Help and Assistance for the new roles of land acquisition and sales, possibly through PAS?

28. Q: Do you agree that in some circumstances local planning authorities will need to look at bringing forward land in the wider housing market? Are there other approaches we could consider?

Yes.

29. Q: Do you foresee any challenges with authorities securing the expertise needed to support them in delivering plots for self builders?

Yes. If all LPAs need these skills simultaneously there will be insufficient trained staff to fulfil all the roles.

30. Q: How should the register reflect the requirements of those who are eligible for affordable housing?

Presumably, the eligibility criteria for custom build will be facilitated in the case of affordable housing applications by the partnership with a Registered Provider? More details on how this relationship could work to deliver affordable housing would be welcomed, but it could represent an innovative way of delivering affordable housing in future albeit for a small number of interested parties.

31. Q: What tools do local planning authorities and registered providers need to enable them to bring forward custom build affordable housing?

The key to answering this question will be to what extent LPAs seek to provide plots for custom build as a proportion of larger development via a S106 agreement. In other words how the calculation for meeting affordable housing could be met in part or in full through an allocation for custom build.

32. Q: How can we design the Right to enable registered providers play a greater role in bringing forward more custom build affordable housing?

Key to the success or otherwise of RP's partnering those custom builders who do not have the financial ability to build their own home will be the availability of funding to RPs to buy the plot when offered and assist in the build.

33. Q: Should individuals from the group register individually, stating their preference to group custom build, or should the group be able to register as one entity?

LPAs would be able to better understand preferences and the sorts of plots they eventually have to offer if individuals were to register.

34. Q: If a single entity is capable of making an expression of interest for a group custom build should the group be required to demonstrate a local connection and financial viability for each individual within the group or would a proportion of the membership (say 75%) be sufficient?

Similarly to the answer to Q33 above, all individuals should be able to demonstrate local connectivity and financial viability.

35. Q: Do you support the principle of allowing Community Land Trusts to register individuals and state their preference for group custom build?

In principle this should be similar to that proposed for RPs, so yes.